

NEW CONTRACT COVER SHEET
Mayor's Office of Strategic Planning & Community Development (OSPCD)
Monica R. Lamboy, Executive Director

Project Name ADA Streetscape Program		
Project Manager: Stephen Winslow	Extension: x2519	
Vendor/Contractor : Sequoia Construction		
Vendor/Contractor Address: 10 Buckley Avenue, Suite 9, Whitman, MA 02382		
Vendor/Contractor Federal ID #: 04-3181294		
Vendor/Contractor Name of Signer: Kevin McCloud		Title: Treasurer
Vendor/Contractor Corporate Clerk/Secretary (for original contract only):		
Vendor/Contractor Contact Person: Ed McCloud		
Contractor/Subcontractor Ethnicity*:		Contractor/Subcontractor Gender:
E-Mail: seqcon2@aol.com	Tel: 781-447-8052	Fax: 781-447-8057
Original Contract Sum: \$135,900.00	Amount to be encumbered: \$100,000 ✓	
Original Contract Term: 2 Years		
Original Contract Insurance:		
Commercial General Liability (\$ 1,000,000 /occurrence; \$ 2,000,000 /aggregate)		
Automobile Liability (\$ 1,000,000 /occurrence; \$ 1,000,000 policy limit coverage)		
Worker's Compensation (statutory coverage under GL, Ch.152)		
FUNDING SOURCE(S):	Year:	HUD Activity #, if applicable *
CDBG ✓ 2007 (# 1433) \$50,000	2007, 2008,	
✓ 2008 (# 1534) \$50,000	2009	
CFDA # 14.218	Section 3 Contractor? (Y/N)	
	CDBG National Objective*: Benefit to Low/Mod Clientele	
Answer Yes or No:	OSPCD Budget Attached?	
Wage Rates?	State Prevailing Rates (S) or Federal Davis Bacon Rates (DB)? DB	
W-9 on File?	Is Vendor/Contractor a WBE? (Y/N) MBE? (Y/N):	
PROCUREMENT METHOD: Chapter 30:39M		

* See below

CONTRACTOR/SUBCONTRACTOR ETHNICITY

White Americans (WA) Hispanic Americans (HA)
Black Americans (BA) Asian/Pacific Islander Americans (A/PI A)
Native Americans (NA) Hasidic Jews (HJ)

HUD ACTIVITY NUMBER

appears on your OSPCD Finance and Admin Budget

CFDA NUMBERS: Applicable when contract is with a nonprofit "subrecipient"

CDBG = 14.218

HOME = 14.239

ESG = 14.231

Economic Development Initiative Grant = 14.251

Lead Hazard Control Grant = 14.900

Lead Hazard Reduction Demonstration Grant = 14.905

If none of the foregoing, insert N/A

CDBG NATIONAL OBJECTIVES

Low/Mod Area Benefit

Benefit to Low/Mod Clientele

Urgent Need

Slums and Blight

N/A if not CDBG-funded

CONTRACT PROCUREMENT METHODS

Chapter 7:38A-1/2 Designer Selection

Chapter 30B:4 Sound Business Judgment [goods and services under \$5,000]

Chapter 30B:4 Request for 3 Quotes (RFQ) [goods and services between \$5,000 and \$24,999]

Chapter 30B:4 Sole Source

Chapter 30B:5 Invitation for Bids (IFB) [goods and services \$25,000 and above and some construction]

Chapter 30B:6 Request for Proposals (RFP) [goods and services \$25,000 and above]

Chapter 30:39M Invitation for Bids [Public Works Construction]

Chapter 149 Invitation for Bids [Public Building Construction]

N/A - Exempt Contract

09 108

CONTRACT NUMBER

\$ 135,900.00

CONTRACT AMOUNT

A 99475

\$ 50,000.00

A- 99447

\$ 50,000.00

PURCHASE ORDER # AND AMOUNT

09-40CD

BID NUMBER

OSPCD

ISSUING DEPARTMENT

Transportation and Infrastructure

FUNDING DEPARTMENT (Division)

March 1, 2009 – February 28, 2010

CONTRACT PERIOD

CITY OF SOMERVILLE

MAYOR'S OFFICE OF STRATEGIC PLANNING AND COMMUNITY DEVELOPMENT

PUBLIC CONSTRUCTION CONTRACT

FOR: ADA Ramps (12) at Four Locations

CONTRACTOR: Sequoia Construction, Inc.
10 Buckley Avenue, Suite 9
Whitman, MA 02382
781-447-8052

ACCORDING TO SPECIFICATIONS CONTAINED HEREIN

CITY OF SOMERVILLE
OWNER-CONTRACTOR PUBLIC CONSTRUCTION AGREEMENT

AGREEMENT made this 1st day of March, 2009, by and between the City of Somerville, a Massachusetts municipal corporation, acting by and through its Purchasing Department, with a usual address of 93 Highland Ave., Somerville, MA 02143 ("City", "Owner" or "Awarding Authority") and the following General Contractor ("Contractor" or "General Contractor"):

GENERAL CONTRACTOR:

Name: Sequoia Construction, Inc.
Address: 10 Buckley Avenue, Suite 9 , Whitman, MA 02382
Telephone: 781-447-8052 Fax: 781-447-8057
E-Mail: seqcon2@aol.com

PROJECT: ADA Ramps (12) at Four Locations

The work consists of the construction of twelve (12) Wheelchair Ramps to Massachusetts Architectural Access Board (AAB) standards (521 MR 21.00, effective January 27, 2006); hiring a design professional to verify that all AAB requirements have been fulfilled; and resetting crosswalk signs. Substantial completion of work shall be by September 1, 2009.

PROJECT MANAGER:

Name: Stephen Winslow
Address: City Hall, 3rd floor, 93 Highland Avenue, Somerville, MA 02143
Telephone: 617-625-6600, x.2519 Fax: 617-625-0722
E-Mail: swinslow@somervillema.gov

DESIGN PROFESSIONAL:

Vendor Name None
address
city, state, zip code

Contact: Name, title
Telephone #.
Fax #:
Email:

Profession: Architect [☐] Landscape Architect [☐] Engineer [☐]

FUNDING SOURCE: Federal [☒] State [☒]

Name: 1) U.S. Department of Housing & Urban Development Community Development Block Grant Funds

2) Commonwealth of Massachusetts, Executive Office of Environmental Affairs, Urban Self Help Grant Program

THIS CONTRACT IS A:

- ☒ Public Works Contract estimated to cost more than \$10,000 subject to the bidding requirements of G.L. c. 30, § 39M
- ☐ Public Building Contract estimated to cost under \$10,000, subject to the price quote requirements of G.L. c. 149 §44A (2)(A)
- ☐ Public Building Contract estimated to cost more than \$10,000 but less than \$25,000, subject to the written response requirements of G.L. c. 149, §44A(2)(B) of the General Laws
- ☐ Public Building Contract estimated to cost more than \$25,000 but less than \$100,000, subject to the bidding requirements of G.L. c. 149, §44A(2)(C) and G.L. c. 30, § 39M
- ☐ Public Building Contract estimated to cost more than \$100,000, subject to the bidding requirements of G.L. c. 149, §44A(D).

Section 1: CONTRACT DOCUMENTS/APPENDICES

The Contract Documents consist of this Agreement; the notice of award of the Contract; the Notice to Proceed; the entire Project Manual; Change Orders; Construction Change Directives; the Contractor's Bid and all accompanying documents; and the Design Professional's written interpretations and clarifications issued on or after the issuance of the Notice to Proceed. Shop Drawing submittals and reports or drawings utilized by the Design Professional in preparing the Contract Documents are not Contract Documents.

The following Appendices are hereby incorporated by reference as part of this Agreement.

- X Certificate of Authority
- * Appendix A - Scope of Services - Misc. Bid Documents: includes a brief description of the Project, the Plans and Technical Specifications (Plans on File) and Addenda issued during the bid process
- X Appendix B - Contractor's Bid Price; Form for General Bid
- X** Appendix C - General Conditions
- X** Appendix D - Insurance Requirements with Contractor's Insurance Certificate(s)
- X Appendix E - Wage Rates; Living Wage
- X Appendix F - Certificate of Good Standing (for corporations)
- X Appendix G - Procurement Documentation (includes Advertisement; Notice to Bidders)
- X Appendix H - Statement of Management (over \$100,000)
- X Appendix I - Performance Bond and Payment Bond, if contract is over \$2,000
- X Appendix J - Section 3 Requirements
- X Appendix K - Laws Applicable to Federally Funded Contracts

X = Attached

* = Included in the Project Manual and incorporated herein by reference

** = Attached and also duplicated in the Project Manual

Section 2: THE CONTRACTOR'S WORK.

The Contractor's "Work" refers to the services and the entire completed construction or the various separately identifiable parts thereof required by the Contract Documents, including all labor, materials, and equipment furnished, furnished and incorporated into the Project, or to be provided by the Contractor to fulfill the Contractor's obligations. The Work may constitute the whole or a part of the Project.

Section 3: PROJECT DATES.

- (a) Contract Period: The Contract shall begin on March 1, 2009 and end on February 28, 2010.
- (b) Date of Commencement of Work: The Date of Commencement of the Work shall be stipulated by a written Notice to Proceed given by the City to the Contractor.
- (c) Date of Substantial Completion: The Contractor shall achieve Substantial Completion of the Work on or before **September 1, 2009**, time being of the essence. Substantial Completion means that the Work has been completed and the Site or the facility is opened for full and intended public use, except for minor incomplete or unsatisfactory items that do not materially impair the usefulness of the Work. The Design Professional shall decide what constitutes "minor," "incomplete," "unsatisfactory," and "materially" and the Design Professional's decision shall be final.
- (d) Date of Final Completion:
The Date of Final Completion shall be November 15, 2009.

Section 4. CONTRACT SUM/LIQUIDATED DAMAGES

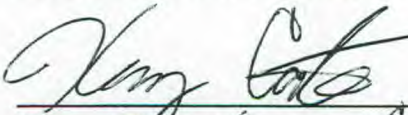
- (a) Contract Sum: The Contract Sum shall be \$ 135,900.00 .
- (b) Liquidated Damages: The Contractor and the City agree to a Liquidated Damages sum of \$250.00 per calendar day.

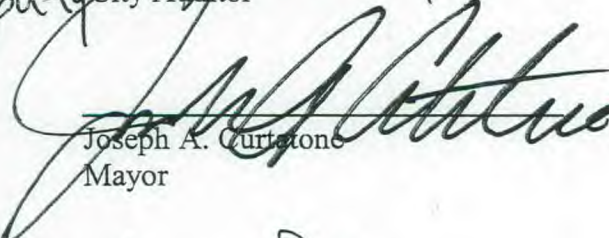
SIGNATURE PAGE FOLLOWS


IN WITNESS WHEREOF, the City and the Contractor have executed this Contract as a sealed instrument as of the date first written above.

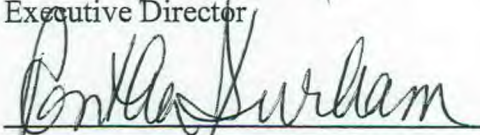
CITY OF SOMERVILLE

I hereby certify that the total contract amount is \$ 135,900.00, and that an unencumbered balance of \$ 100,000.00 is available for the first fiscal year of this contract. I further certify that a sum of \$ 100,000.00 is hereby encumbered against the appropriate account for the purposes of this contract. Further, I certify that as funds become available, I will encumber additional sums as are required under this contract.

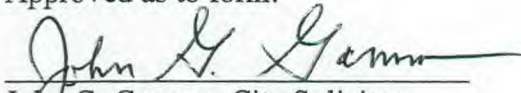

Edward Bean
Deputy City Auditor


Joseph A. Curtatone
Mayor


Monica R. Lamboy, OSP/CD
Executive Director


Rositha Durham, Purchasing Director

Approved as to form:


John G. Gannon, City Solicitor

VENDOR:

Sequoia Construction, Inc.


Signature of Authorized Agent of Vendor

Printed Name: Kevin McCloud
Title: Treasurer

Vendor Address: 10 Buckley Avenue, Suite 9

Whitman, MA 02382

Federal Tax ID: # 04-3181294

FOR CORPORATIONS ONLY:


Clerk's Signature

Edward McCloud
Clerk's Name

Certificate of Authority

At a meeting of the Board of Directors of: SEQUOIA CONSTRUCTION INC.

Held on: 1-2-09, at which a quorum was present, it was VOTED,

that: KEVIN MC CLOUD, TREASURER of this company

is hereby authorized to execute contracts and bonds in the name of an on behalf of said

company, and affix its corporate seal therto; and such execution of any contract or

obligation in this company's name on its behalf by such: KEVIN MC CLOUD

under seal of this company shall be valid and binding upon this company.

A True Copy Attest:

Clerk/Secretary: 
Signature

EDWARD MC CLOUD
Print Name

10 BUCKLEY AVE SUITE 9 WHITMAN, MA 02382
Place of Business

I, EDWARD MC CLOUD, hereby certify that I am the
clerk/secretary of the: SEQUOIA CONSTRUCTION INC.

and that: KEVIN MC CLOUD

is the duly authorized person of said company, and that the above vote has not been
amended or rescinded and that said vote remains in full force as of this date.


Clerk/Secretary

APPENDIX A

Scope of Services – Miscellaneous Bid Documents

Includes a brief description of the project
The Plans and Technical Specifications (Plans on File)
And addenda issued during the bid process.



CITY OF SOMERVILLE, MASSACHUSETTS
Department of Purchasing
JOSEPH A. CURTATONE
MAYOR

To: Prospective bidders IFB 09-40CD, ADA Ramps Construction

From: Karen Mancini, Asst. Purchasing Director

Date: January 29, 2009

Re: Change in Bid Opening Dates

Addendum No. 1 to IFB 09-40CD

The City is issuing this addendum to IFB 09-40CD, ADA Ramps Construction , to provide additional information:

1. The Following Bid Dates Have been changed to the following:

- **Bid Opening Date has been changed to:**
Friday, 2/13/2009 @ 11:00 AM
- **Pre-Bid Conference Meeting has been changed to:**
Monday, 2/9/2009 @ 10:00 AM
Somerville City Hall, 93 Highland Avenue
OSPCD Conf. Room, Third Floor
- **Questions must be submitted by:**
Wednesday, February 11, 2009 by 4:30 PM

**CITY OF SOMERVILLE MASSACHUSETTS
SOMERVILLE CITY HALL
93 HIGHLAND AVENUE
SOMERVILLE MA. 02143
BIDDING INSTRUCTIONS FOR
ADA RAMP CONSTRUCTION
AT FOUR LOCATIONS
Bid No. 09-40CD**

Enclosed you will find an invitation to bid for: The work consists of the construction of Twelve (12) Wheelchair ramps to Massachusetts Architectural Access Board (AAB) standards (521 MR 21.00, effective January 27, 2006); hiring a design professional to verify that all AAB requirements have been fulfilled; and resetting crosswalk signs. Substantial completion of work shall be by September 1, 2009.

A Pre-Bid Conference will be held on Monday, February 9, 2009 at 10:00 AM, at the OSPCD, 3rd floor Conference Room, Somerville City Hall, 93 Highland Ave., Somerville.

When submitting bid, please identify the bid item and number clearly. All bids must be sealed and delivered to Purchasing Department, City of Somerville, 93 Highland Ave., Somerville, MA 02143. Please mark the outside of all bid envelopes with the Bid number above and write "ADA Ramps" on the bid envelope.

BIDS SUBMITTED MUST BE AN ORIGINAL.

The completion of the following forms is necessary for consideration of a potential contract award. When submitting bid documents, please retain the order of documents as originally provided.

- 1) "Notice to Bidders" signed by person submitting bid.
- 2) "Signature Form" complete when submitting your bid.
- 3) Tax Compliance/Non Collusion Form
- 4) Certificate of Signature Authority
- 5) Somerville Living Wage Form
- 6) Quality Requirements
- 7) Form for General Bid
- 8) Bid Form for Alternates
- 9) Schedule of Values

NOTE: If Vendor is incorporated an updated "CERTIFICATE OF GOOD STANDING" from the Commonwealth of Massachusetts will be needed for the awarded vendor only.

CITY HALL HOURS HAVE BEEN CHANGED. WE ARE OPEN UNTIL 7:30 P.M. ON THURSDAYS AND CLOSE ON FRIDAYS AT 12:30 P.M.

Please review and return with your sealed bids as sent. Also, insure that all forms are completed and your bid response is submitted as requested.

Your cooperation is greatly appreciated.

City of Somerville
Invitation for Bids for
ADA Ramp Construction
Bid No. 09-40CD

I. General Information and Bid Submission Requirements

Bid Delivery

All bids must be delivered to City of Somerville, Purchasing Department, 93 Highland Avenue, Somerville, MA 02143.

**A Pre-Bid Conference will be held on Monday, February 9, 2009, at 10:00 AM
OSPCD, 3rd floor Conference Room, Somerville City Hall, 93 Highland Avenue, Somerville.**

Bids must be delivered by: **11:00 A.M. on Friday, February 13, 2009.**

1 copy of the bid should be submitted. Bids must be sealed and marked as follows:
"Bid for ADA Ramp Construction, Bid #09-40CD."

All bids must include a non-collusion form, tax compliance certificate, bid pricing sheet, reference form as provided in this IFB, and 5% bid surety in the amount of 5% of the proposed bid amount. The estimated contract amount is \$140,000.00. A Bid bond, Certified Check, Treasurer's Check, or Cashier's Check made payable to the City must be submitted with each bid. Said bid guarantee will become the property of the City of Somerville if the proposal is accepted and the bidder either neglects or refuses to comply with the terms of the proposal. Bid guarantee will be returned within 30 days to all unsuccessful bidders.

Bid Signature

A bid must be signed as follows: 1) if the bidder is an individual, by her/him personally; 2) if the bidder is a partnership, by the name of the partnership, followed by the signature of each general partner; and 3) if the bidder is a corporation, by the authorized officer, whose signature must be attested to by the clerk/secretary of the corporation, and with the corporate seal affixed.

Time for Bid Acceptance

The contract will be awarded within 60 days after the bid opening. The time for award may be extended for up to 45 additional days by mutual agreement between the City of Somerville and the apparent lowest responsive and responsible bidder (or, for a contract requiring payment, the apparent highest responsive and responsible bidder.)

Bonding Requirements

A Performance Bond and a Labor and Materials Bond in the amount of 100% each is required upon contract award.

Prevailing Wage Requirements

Davis Bacon Wage Rates apply to this contract. The applicable wage rates are attached.

Changes and Addenda

If any changes are made to this IFB, an addendum will be issued. Addenda will be mailed or faxed to all bidders on record as having picked up the IFB. No changes may be made to the bid documents, by the Bidders; without written authorization and/or an addendum from the Purchasing Department.

Questions about the IFB

Questions concerning this invitation for bids must be submitted in writing to: Karen Mancini, City of Somerville, Purchasing Department, 93 Highland Avenue, Somerville, MA 02143 **before 4:30 P.M. on Wednesday, February 11, 2009.** Questions may be delivered, mailed, faxed to: 617-625-1344, or e-mailed to kmancini@somervillema.gov. Written responses will be mailed or faxed to all bidders on record as having picked up the IFB.

If any Bidders or proposers contact anyone outside of Purchasing, for information about this proposal, the bid/proposal will be disqualified from the bidding process.

Modification or Withdrawal of Bids, Mistakes, and Minor Informalities

A bidder may correct, modify, or withdraw a bid by written notice received by the City of Somerville prior to the time and date set for the bid opening. Bid modifications must be submitted in a sealed envelope clearly labeled "Modification No. ___" to the address listed in part one of this section. Each modification must be numbered in sequence, and must reference the original IFB.

After the bid opening, a bidder may not change any provision of the bid in a manner prejudicial to the interests of the City or fair competition. Minor informalities will be waived or the bidder will be allowed to correct them. If a mistake and the intended bid are clearly evident on the face of the bid document, the mistake will be corrected to reflect the intended correct bid, and the bidder will be notified in writing; the bidder may not withdraw the bid. A bidder may withdraw a bid if a mistake is clearly evident on the face of the bid document, but the intended correct bid is not similarly evident.

Right to Cancel/Reject Bids

The City of Somerville may cancel this IFB, or reject in whole or in part any and all bids, if the City determines that cancellation or rejection serves the best interests of the City.

Unbalanced Bids

The City reserves the right to reject unbalanced, front loaded, and conditional bids.

Bid Prices to Remain Firm

All bid prices submitted in response to this IFB must remain firm for 60 days following the bid opening.

Unforeseen Office Closure

If, at the time of the scheduled bid opening, Purchasing Department is closed due to uncontrolled events such as fire, snow, ice, wind, or building evacuation, the bid opening will be postponed until 2:00 p.m. on the next normal business day. Bids will be accepted until that date and time.

II. Purchase Description/Scope of Services

Contract Term Length and Renewal Options

The contract will remain in effect from February 15, 2009 through February 14, 2010. With a Substantial completion date of September 1, 2009 and a project completion date of November 15, 2009.

Price Submission

All prices must be stated as requested on the Bid price submission pages.

Estimated Quantities

The City of Somerville has estimated the quantities required for each of the items on the bid price submission pages, however, these estimates are estimates only and are not guaranteed. The contract value has been estimated at \$140,000.00.

Brand Name "Or Equal"

Any references to any brand name or proprietary product in the specifications shall require the acceptance of an equal or better brand. Samples may be requested before a final decision is made. The City has the right to make the final determination as to whether an alternate brand is equal to the brand specified.

Warranty

The bidder warrants a one-year warranty on workmanship, products and materials for defects that arise other than normal wear and tear.

The bidder guarantees that upon inspection, any defective or inferior workmanship, products and materials shall be replaced without additional cost to the City. The Vendor will assume any additional cost accrued by the City due to the defective or inferior workmanship, products and materials.

Invoicing

Vendor will mail an invoice to the contracting department.

Cancellation

The City reserves the right to cancel this contract at any time on any grounds, including the vendor's failure to comply with the specifications provided herein.

Specifications/Scope of Work

General

The work to be performed under this contract consists of furnishing labor, materials, and equipment for the specified repairs at various municipally owned facilities.

Examination of Property

The contractor shall fully inform himself of the existing conditions where the work is to be done.

Protection of Property

The contractor shall take all precautions to protect the property of the City from injury and shall be held responsible for all employees or any person or persons, instrument or device directly or indirectly employed by him. Any corresponding damages shall be replaced, repaired and paid for by the contractor to the satisfaction of the City.

Quality of Workmanship

All work must be done in a thorough workmanlike manner.

Experience

The contractor shall have been established in the specified field for at least 5 years.

Response Time

The contractor must respond within forty-eight hours when issued notification by the City of Somerville.

Laws and Regulations

The contractor shall comply with all Federal, State and Local laws regulations and ordinances governing this type of work. Without limiting the generality of the forgoing, the Contractor shall comply with all applicable Mass Highway specifications, and Massachusetts Architectural Access Board (AAB) standards and regulations. In addition, because the funding source is Federal Community Development Block Grant funds, the Contractor shall comply with the Americans with Disabilities Act (ADA) and the Architectural Barriers Act of 1968, including compliance with Uniform Federal Accessibility Standards (see paragraph #12 of Appendix K).

Estimates and Surveys

The contractor shall, as required, furnish estimates and survey proposed work at no cost to the City.

SPECIFICATIONS FOR ADA RAMP CONSTRUCTION

SCOPE OF WORK

The work consists of the construction of twelve (12) wheelchair ramps to Massachusetts Architectural Access Board (AAB) standards (521 CMR 21.00, effective January 27, 2006); hiring a design professional to verify that all AAB requirements and City of Somerville standards have been fulfilled; restriping crosswalks as necessary (meeting City of Somerville standards); and resetting crosswalk signs.

The work shall take place at the following four (4) locations:

1. The intersection of Cherry Street and Elm Street, near the John F. Kennedy Elementary School;
2. The intersection of Burnham Street and Powderhouse Boulevard near Tufts University;
3. The intersection of Somerville Avenue and Prospect Street near Union Square; and
4. Broadway in Somerville at the driveway to Clarendon Hill Towers.

The work to be done under this contract consists of provision and payment for all materials, labor, tools, equipment, pumping, water, power, transportation, superintendence, verifications by the design professional, temporary construction of every nature, taxes legally collectable because of the work, and all other services and facilities of every nature whatsoever necessary to execute the work and to complete in every respect and as shown on the drawings or called for in the specifications

PROVISION FOR TRAVEL AND PROSECUTION OF THE WORK

The street and adjacent side streets shall remain open to travel throughout the period required for the completion of the improvement except as permitted by the City of Somerville Traffic Commission. Reasonable facilities shall be provided by the contractor for the convenient and safe passage of pedestrians through the project and also to and from properties abutting the improvement. Particular care shall be taken at all times to establish and maintain such methods of procedure as will not create hazards of an unusual nature.

WORK SCHEDULE

Work on this project is mainly restricted to a ten hour day, five-day week with the Prime Contractor and all Sub Contractors working on the same shift. Peak hour work restrictions may apply as specified in the Street Permit or as directed by the Engineer.

DISPOSAL OF SURPLUS MATERIAL

Surplus material resulting from the various kinds of excavation and not required for use on the project shall be disposed of by the contractor, outside the project limits, at his own responsibility and without additional compensation thereof.

PROTECTION AND RESTORATION OF PROPERTY

Special care shall be exercised by the Contractor during the prosecution of the work, to save from harm and injury any structure, public or private, water system situated above or below the surface, and adjacent properties lying within the scope of the project, not specifically designated to be removed or otherwise altered.

RETAINAGE

A Retainage of 5% shall be held by the City. This sum shall be held by the City for a period of sixty (60) days after final estimate is made and the work is accepted by the City.

NOTE: Contractor's equipment is not to be parked or stored at the Public Works Yard at any time.

All unit prices quoted herein shall be firm for the duration of the Contract, regardless of any changes in the cost of materials or labor.

SPECIAL PROVISIONS

NOTICE TO OWNERS OR UTILITIES

Written notice shall be given by the Contractor to all public service corporations or officials owning or having charge of publicly or privately owned utilities of his intention to commence operations affecting such utilities at least one week in advance of the commencement of such operations, and the contractor shall, at the same time, file a copy of such notice with the Engineer.

Bidders are hereby notified that information is available regarding the existing utility structures which may be encountered within and adjacent to the limits of the work and the corporations owning controlling same. The completeness of this list is not guaranteed by the Department.

City of Somerville
Department of Public Works
Superintendent of Lights & Lines
Engineering Division
Water Division
Sewer Division
One Franey Road
Somerville, MA 02145
Tel. (617) 625-6600

NSTAR
NSTAR Way
Westwood, MA 02090
Tel. (781) 441-8000

Time Warner Cable
300 Commercial Avenue
Malden, MA 02148
Tel. (781) 397-2600

Massachusetts Water Resource Authority
(MWRA)
59 Amaranth Avenue
Medford, MA 02155
Tel. (781) 306-2130

Verizon New England
185 Franklin Street
Suite 1250
Boston, MA 02210
Tel. (617) 743-4524

Somerville Dept. of Traffic
and Parking
133 Holland Street
Somerville, MA 02144
Tel. (617) 625-6600 x7900

Algonquin Gas Trans Co.
8 Wilson Way
Westwood, MA

M.W.R.A. Water & Sewer Division
Charlestown Navy Yard
100 First Avenue
Boston, MA 02129
Tel. (617) 242-6000

Dept. of Conservation & Recreation
Division of Urban Parks & Recreation
153 Causeway Street
Boston, MA

RCN – CATV
115 West First Street
South Boston, MA 02127
Tel. (617) 670-2927

Bell Atlantic (BA)
285 Lucas Street
Woburn, MA 01801
Tel. (781) 939-3566

Comcast
116 Crosby Road
Unit 10
Dover, NH 03820
Tel. (603) 749-9194

Media One
790 Main Street
Wilmington, MA 01887
Tel. (978) 658-0400

The Contractor shall notify Massachusetts "DIG SAFE" 72 hours prior to start of construction.

"DIG SAFE" call center: 1-888-DIGSAFE or 1-888-344-7233.

BOND REQUIREMENTS

A Performance Bond and a Labor and Materials Bond in the amount of 100% each of the contract price will be required from the successful bidder.

PREVAILING WAGE REQUIREMENTS

Bidders will be required to comply with the Davis Bacon Wage Laws,. Every bidder will be required to submit a certified payroll to the City every week. The City will take an active role in reviewing and monitoring these payroll weekly. If the City suspects any violations, the City will report them to the Attorney General's Fair Labor and Business Practices Division. The Attorney General's Office, after conducting an investigation and a hearing can order the bidder to halt work, if it finds prevailing wage violations. Within fifteen days after completion of its portion of the work the bidder must submit a Statement of Compliance with the prevailing wage law. The City reserves the right to conduct hearings on bids that are significantly below the average bid price submitted on a project, to make findings of fact and determinations. Weekly payrolls are public records and the bidder shall make them available upon request. The Bidder is required to keep these records for a period of three years from the date of the completion of this contract.

CONTRACT PERIOD

The contract will be from February 15, 2009 through February 14, 2010. The project substantial completion date is September 1, 2009 with a project completion date of November 15, 2009.

INSURANCE REQUIREMENTS

(See attached)

CONCRETE WHEELCHAIR RAMP

City of Somerville Standards

Ramps shall be built to the latest specifications of the Mass Highway State Standards. Pavement shall include the installation of Detectable Warning Panel in accordance with Mass Highway Engineering Directive M/E 107.6.5. **Color of panels shall be brick red.**

TRAFFIC POLICE

The Contractor shall provide such police officers as the Project Manager deems necessary for the direction and control of traffic within the site of the improvement. Such officers shall wear regulation policemen's uniforms. Compensation for the services of said police officers to be paid by the Contractor to a designated municipal official, at a patrolman's rate of pay, subject to all rules and regulations, ordinances or by-laws in effect in the City of Somerville.

The Contractor is required to submit weekly certified copies of payroll, covering such police officers, containing complete payroll information and payment receipts.

The City of Somerville will reimburse the Contractor for payments made for the services of all required traffic officers upon receipt of payment vouchers.

III. Quality Requirements

Please respond to the following questions. A negative response to any of the following questions will automatically disqualify the vendor:

	Yes	No
Has the contractor been established in this specified field for at least 5 years?	✓	
Has the contractor successfully completed a minimum of three (3) similar projects within the past six (6) years?	✓	
Can the Contractor provide a design professional, to certify to the City, that the Wheelchair ramps will meet the Massachusetts Architectural Access Board (AAB) standards (521 MR 21.00, effective 1/27/06 and verify that all AAB requirements will be met?	✓	
Can the Contractor verify that it can meet the City of Somerville standards for Wheelchair Ramps?	✓	
Can the Contractor certify that all employees to be provided, have successfully completed at least 10 hours of OSHA approved training in Construction Safety and Health?	✓	
Optional: Vendor: Are you a State Office for Minority and Women Owned Business Assistance (SOMWBA) certified minority or woman owned business?	✓	

IV. References

The Form for General Bid requires a minimum of three municipal references for whom similar construction of sidewalk handicap access has been provided. Include contact person and telephone number along with company name and address.

V. Rule for Award

One contract will be awarded to the responsible and eligible bidder offering the lowest bid price.

VI. Form for General Bid

The Form for General Bid includes the base bid on the first page and incorporates as an attachment a Bid Form for Alternates. These are DEDUCT ALTERNATES which, if adopted by the City, shall decrease the bidder's base bid. The City reserves the right to determine lowest responsible and eligible bidder on the basis of the (1) Bidder's Base Bids, or (2) Bidders Base Bids less Deduct Alternative #1, or (3) the Bidders Base Bids less the Deduct Alternatives #1 and #2.

Prices are to include delivery, the cost of fuel, the cost of labor, equipment and all other charges required for the twelve (12) Wheelchair Ramps at four (4) locations, as specified. Prices are to remain the same for the entire contract period.

SOMERVILLE LIVING WAGE ORDINANCE FORM

(Ordinance No. 1999-1*)

This form shall be included in all Invitations for Bids and Requests for Proposals which involve the furnishing of labor, time or effort (with no end product other than reports) by vendors contracting or subcontracting with the City of Somerville, where the contract price meets or exceeds the following dollar thresholds:

- a) \$50,000 for contracts commencing during the period 7-1-99 to 6-30-01
(Fiscal Years 2000 and 2001);
- b) \$30,000 for contracts commencing during the period 7-1-01 to 6-30-03
(Fiscal Years 2002 and 2003); and
- c) \$10,000 for contracts commencing during the period 7-1-03 and thereafter
(Fiscal Years 2004 and thereafter.);

The purpose of this form is to ensure that such vendors pay a "Living Wage" (defined below) to all covered employees (i.e., all employees except individuals in a city, state or federally funded youth program). In the case of bids, the City will award the contract to the lowest responsive and responsible bidder paying a Living Wage. In the case of RFP's, the City will select the most advantageous proposal from a responsive and responsible offeror paying a Living Wage. In neither case, however, shall the City be under any obligation to select a bid or proposal that exceeds the funds available for the contract.

Definition of "Living Wage" For this contract or subcontract, as of 07-01-2008 "Living Wage" shall be deemed to be an hourly wage of no less than \$10.84/hour. From time to time, the Living Wage may be upwardly adjusted and amendments, if any, to the contract or subcontract may require the payment of a higher hourly rate if a higher rate is then in effect.

If the undersigned bidder or offeror is selected, this form will be attached to the contract or subcontract and the certifications made herein shall be incorporated as part of such contract or subcontract.

CERTIFICATIONS

- 1. The undersigned shall pay no less than the Living Wage to all covered employees who directly expend their time on the contract or subcontract with the City of Somerville.
- 2. The undersigned shall post a notice, (copy enclosed), to be furnished by the contracting City Department, informing covered employees of the protections and obligations provided for in the Somerville Living Wage Ordinance, and that for assistance and information, including copies of the Ordinance, employees should contact the contracting City Department. Such notice shall be posted in each location where services are performed by covered employees, in a conspicuous place where notices to employees are customarily posted.

* Copies of the Ordinance are available upon request to the Purchasing Department.

CERTIFICATE IN GOOD STANDING

TO: Vendor

FROM: Purchasing Department

RE: **CERTIFICATE IN GOOD STANDING**

The **Awarded Vendor** must comply with our request for a **CURRENT "Certificate in Good Standing"**.

If you require information on how to obtain the "Certificate in Good Standing" or Certificate of Registration (Foreign Corporations) from the Commonwealth of Massachusetts, please call the Secretary of State's Office at (617) 727-2850 (Press #1) located at One (1) Ashburton Place, 17th Floor, Boston, MA 02133 or you may access their web site at :
www.sec.state.ma.us/corp/certificates/certificate_request.asp

If your company is incorporated outside of Massachusetts and therefore is a "foreign corporation", but is registered to do business in Massachusetts, please comply with our request for the Certificate of Registration from the Commonwealth of Massachusetts. If your company is a foreign corporation, but is not registered to do business in Massachusetts, please provide the Certificate of Good Standing from your state of incorporation.

Please note that without the above certificate (s), the City of Somerville cannot execute your contract.

IMPORTANT NOTICE

Requests for Certificates in Good Standing by mail may take a substantial amount of time. A certificate may be obtained immediately in person at the Secretary's Office at the address above. Also, at this time, the Secretary of State's Office may not have your current annual report recorded. If this is the case, and you are therefore unable to obtain the Certificate of Good Standing, please forward a copy of your annual report filing fee check with your signed contracts. Please forward your original Certificate of Good Standing to the Purchasing Department upon receipt.

Thank You,
Purchasing Director

CERTIFICATE OF NON-COLLUSION

The undersigned certifies under penalties of perjury that this bid or proposal is in all respects bona fide, fair and made, without collusion or fraud with any other person. As used in this certification, the word "person" shall mean any natural person, joint venture, partnership, corporation, union, or other business or legal entity.

K McNeil
Signature of individual submitting bid or proposal

SEQUOIA CONSTRUCTION INC.
Name of business

TAX COMPLIANCE CERTIFICATION

Pursuant to M.G.L. c. 62C, §49A, I certify under the penalties of perjury that, to the best of my knowledge and belief, I am in compliance with all laws of the Commonwealth relating to taxes, reporting of employees and contractors, and withholding and remitting child support, as well as paid all contributions and payments in lieu of contributions pursuant to MGL 151A, §19A(b).

K McNeil
Signature of person submitting bid or proposal

SEQUOIA CONSTRUCTION INC.
Name of business

2-13-09
Date

04-3181294
FID#

CITY OF SOMERVILLE

SIGNATURE FORM

NAME OF COMPANY: SEQUOIA CONSTRUCTION INC.
ADDRESS: 10 BUCKLEY AVE SUITE 9 WHITMAN, MA 02382
TELEPHONE #: 781-447-8052 FAX #: 781-447-8057
DATE: 2-13-09

SIGNATURE OF AUTHORIZED CONTRACTING OFFICIAL:

TITLE: TREASURER

RESIDENCE: 1 VIOLET ST LAKEVILLE, MA 02347

IF COMPANY IS A PARTNERSHIP:

FULL NAME AND RESIDENCE OF EACH PARTNER:

IF COMPANY IS A CORPORATION:

THE CORPORATE NAME IS: SEQUOIA CONSTRUCTION INC.

THE CORPORATION IS ORGANIZED UNDER THE LAWS OF: MA.

THE PRESIDENT IS: NANCY MCCLOUD

THE TREASURER IS: KEVIN MCCLOUD

THE CLERK/SECRETARY IS: EDWARD MCCLOUD

NAME OF CORPORATION THAT WILL APPEAR ON A POTENTIAL CONTRACTUAL AGREEMENT IF DIFFERS FROM ABOVE: _____

NAME AND TITLE OF PERSON WHO WILL BE RESPONSIBLE FOR THE SIGNING OF A POTENTIAL CONTRACTUAL AGREEMENT IF DIFFERS FROM ABOVE:

NAME: _____ TITLE: _____

NAME OF CLERK/SECRETARY WHO WILL ALSO BE SIGNING FOR A POTENTIAL CONTRACTUAL AGREEMENT IF DIFFERS FROM ABOVE: _____

Appendix A Specifications

Section 01000

Section 01000	Special Conditions	Pages 1 -10
Section 01010	Summary of Work	Page 11
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Section 02000

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SECTION 01000
SPECIAL CONDITIONS

1.01 DEFINITIONS

- A. General: Except as specifically defined otherwise, the following definitions supplement definitions of the Contract, General Conditions, Special Conditions, Technical Specifications and other general contract documents, and apply generally to the work.
1. Owner: City of Somerville, Massachusetts, Mayor's Office of Strategic Planning and Community Development.
 2. Project Manager: Stephen Winslow of the City of Somerville, Massachusetts. Tel. No. (617) 625-6600 or other person identified by the City.
 3. Engineer: Charles O'Brien, City Engineer tel.617-625-6600 or other person identified by the City.
 4. Indicated: Shown on drawings by notes, graphics or schedules, or written into other portions of contract documents. Terms such as "shown", "noted", "scheduled" and "specified" have same meaning as "indicated" and are used to assist the reader in locating particular information.
 5. Directed, Requested, Approved, Accepted, etc.: These terms imply "by the City Engineer" unless otherwise indicated.
 6. Approved by Engineer: In no case releases Contractor from responsibility to fulfill requirements of contract documents.
 7. Project Site: Space available to Contractor at location of project, either exclusively or to be shared with separate contractors, for performance of the work.
 8. Furnish: Supply and deliver to project site, ready for unloading, unpacking, assembly, installation and similar subsequent requirements.
 9. Install: Operations at project site including: unloading, unpacking, assembly, erection, placing, anchoring, applying, working to dimension, finishing, curing, protecting, cleaning and similar requirements.
 10. Provide: Furnish and install, complete and ready for intended use.
 11. Remove: Complete removal, loading, transporting, permits, and legal disposal off-site by the Contractor of all designated materials in accordance with local, state and federal regulations, at the Contractor's expense.
 12. Installer: Entity (firm or person) engaged to install work, by Contractor, subcontractor or sub-contractor. Installers are required to be skilled experts in work they are engaged to install.
 13. Specification Text Format: Underscoring facilitates scan reading, no meaning. Imperative language is directed at Contractor, unless otherwise noted.

14. Overlapping/Conflicting Requirements: Most stringent (generally) language written directly into contract documents clearly indicates that a less stringent requirement is acceptable. Refer uncertainties to Engineer for decision before proceeding.
15. Where optional requirements are specified in a parallel manner, option is intended to be Contractor's unless otherwise indicated.
16. Minimum Requirements: Indicated requirements are for a specific minimum acceptable level of quality/quantity, as recognized in the industry. Actual work must comply (within specified tolerances), or may exceed minimums within reasonable limits. Refer uncertainties to Engineer for decision before proceeding.
17. Abbreviations, Plural Words: Abbreviations, where not defined in contract documents, will be interpreted to mean the normal construction industry terminology, determined by recognized grammatical rules, by the Engineer. Plural words will be interpreted as singular and singular works will be interpreted as plural where applicable for context of contract documents.

1.02 PROJECT SITES

The work shall take place at the following four (4) locations:

1. The intersection of Cherry Street and Elm Street near the John F. Kennedy Elementary School;
2. The intersection of Burnham Street and Powder House Boulevard near Tufts University;
3. The intersection of Somerville Avenue and Prospect Street near Union Square; and
4. Broadway in Somerville at the driveway to Clarendon Hills Towers.

1.03 SUMMARY OF WORK

The Work consists of the construction of twelve (12) wheelchair ramps to Massachusetts Architectural Access Board (AAB) Standards (521 CMR 21.00, effective January 27, 2006), hiring a design professional to verify that all AAB requirements have been fulfilled, restriping crosswalks as necessary, and resetting crosswalk signs.

The Work to be done under this Contract consists of provision and payment for all materials, labor, tools, equipment, pumping, water, power, transportation, superintendence, temporary construction of every nature, taxes legally collectable because of the work, and all other services and facilities of every nature whatsoever necessary to execute the work and to complete in every respect and as shown on the drawings or called for in the specifications.

1.04 TIME FOR COMPLETION AND SEQUENCE OF WORK

- A. The work which the Contractor is required to perform under this Contract shall be commenced at the time stipulated by the Owner in the Notice to Proceed.

Substantial Completion shall be by September 1, 2009. The following scope of work will constitute Substantial Completion:

- Excavation and sawcutting;
- curb removal, relocation and resetting;

- installation of concrete curb ramps;
- re-installation of crosswalk signs;
- temporary painting of crosswalks; and
- verification by a design professional that all AAB requirements as set forth in 521 CMR 21.00 have been fulfilled.

Final Completion shall be by November 15, 2009.

The Contractor shall employ sufficient equipment and workmen to complete the installation as expeditiously as possible as directed by the Project Manager. If, in the opinion of the Owner the progress of the work of the Contractor does not, at any time, clearly demonstrate that completion of the installation will meet with the approval of the Owner, the Owner reserves the right to require the Contractor to employ such additional equipment and workmen as required, and to work overtime hours to assure completion dates, all without additional cost to the Owner.

- B. No night, Saturday, Sunday or holiday work requiring the presence of City Staff will be permitted except in case of an emergency, and then only to such an extent as is absolutely necessary, with the approval of the Project Manager.

1.05 LIQUIDATED DAMAGES

- A. As actual damages for any completion of the work which the Contractor is required to perform under this Contract are impossible of determination, the Contractor and his Sureties shall be liable for and shall pay to the Owner the sum of **two hundred and fifty dollars (\$250)** as fixed and agreed, as liquidated damages for each calendar day of delay from the date stipulated for completion, or as modified in accordance with the General and Special Conditions.

1.06 OWNER'S TAX EXEMPTION

- A. The Awarding Authority, as a department of a corporate municipality in the Commonwealth is exempt from the taxes listed below. Contractor shall notify all suppliers of the following current certificates:
1. Federal Excise Taxes as applied to articles taxable under Chapter 32 of the Internal Revenue Code of 1954, as amended, City of Somerville Excise Tax Exemption Certificate is not required.
 2. From Sales and Use Tax imposed by the Commonwealth of Massachusetts under Chapter 14, Acts of 1966, the City of Somerville has been assigned exemption certificate No. 046-001-414 with respect to leases, rental, or purchases of "Tangible Personal Property".

1.07 RESPONSIBILITIES OF CONTRACTOR

- A. Except as otherwise specifically stated in the Contract Documents and Technical Specification, the Contractor shall provide and pay for all materials, tools, labor, equipment, water, light, heat, power, transportation, superintendence, temporary construction of every nature, charges, levies, fee or other expenses, permits and back charges and all other services and facilities of every nature whatsoever necessary for the performance of the Contract and to deliver all improvements embraced in this Contract for Site Preparation completed in every respect within the specified time.

- B. Unless otherwise specified herein all materials, workmanship, methods, and practices shall conform to the current Standards of the appropriate Department of the City of Somerville.
- C. The Contractor shall be responsible for detailed layout, all stake-out and grade control, and, if necessary, shall employ a registered Professional Engineer or a registered Land Surveyor for this purpose.
- D. The Contractor shall verify dimensions and utility locations shown on the plans and if any inconsistencies or discrepancies should be noted on the Drawings, or between the Drawings and actual field conditions, or between the Drawings and the Specifications he shall immediately notify the Project Manager. The Contractor will be held responsible for any errors resulting from his failure to exercise the aforementioned precaution. Such information shall be marked on copies of the drawings and submitted to the Project Manager.
- E. The Contractor shall employ a suitable superintendent and foremen to represent him at all the several parts of the work and they shall be present at all times while the work entrusted to them is in progress and shall be informed thoroughly regarding it. The foreman, mechanics, and others employed by the Contractor shall be skilled and experienced in the particular work which is given them to do.
- F. As soon as the Contract is executed, the Contractor shall order materials, submit construction schedules as hereinafter specified, and otherwise anticipate the Notice to Proceed. When the Owner gives the Notice to Proceed, the work of construction shall begin at the time stipulated therein and shall be completed within the Time for Completion specified.
- G. It is the Contractor's responsibility to make his own investigation and related assumptions and to satisfy himself as to subsurface conditions and to ensure that these are reflected in the general and unit prices bid.
- H. In order to verify locations of utilities and varying field conditions, exploratory excavations have been incorporated into the plans for this contract, the cost of which are to be included in the contract price bid.
- I. The Contractor's attention is called to the necessity of obtaining permits.
 - 1. All persons desiring to use such water from a hydrant or any other appurtenance shall apply for a "Hydrant Permit" at the city of Somerville.

1.08 COMMUNICATIONS

- A. All notices, demands, requests, instructions, approvals, proposals and claims must be in writing and must be presented to the Project Manager.
- B. Any notice to or demand upon the Contractor shall be considered sufficiently given if delivered at the office or field office of the Contractor stated on the signature page of the Agreement (or at such other office as the Contractor may from time to time designate in writing to the Owner), or if deposited in the United States mail in a sealed, postage-prepaid envelope, or delivered with charges prepaid to any telegraph company for transmission, in each case addressed to such office.
- C. All papers required to be delivered to the Owner shall, unless otherwise specified in writing to the Contractor, be delivered to the Office of Strategic Planning and Community Development, City of Somerville, 93 Highland Avenue, and any notice to or demand upon

the Owner shall be sufficiently given is so delivered, or if deposited in the United States mail in a sealed, postage-prepaid envelope, or delivered with charges prepaid to any telegraph company for transmission to said Owner at such address, or to such other representatives of the Owner or to such other address as the Owner may subsequently specify in writing to the Contractor for such purpose.

- D. Any such notice shall be deemed to have been given as of the time of actual delivery or (in case of mailing) when the same should have been received in due course of post, or in the case of telegrams, at the time of actual receipt, as the case may be.

1.09 LAYOUT WORK

- A. The City has identified sample templates for each location that the Contractor will use to develop lay-outs in the field. The Contractor is hereby required to verify the proposed template can be implemented by referencing fixed elements such as existing exterior walls and other points which serve as reference points of layout work. The Contractor shall, upon start-up of his work carefully verify the feasibility of the selected sample template. If the sample template is not feasible to implement, the Contractor shall propose an alternative template that meets ADA requirements. The Contractor shall report to the Project Manager any conditions which are found to be in conflict with Contract Documents. The Project Manager will advance decisions as to necessary adjustment to dimensions and will promptly disseminate revised drawings or corrections which shall serve as the basis for advancement of the work.
- B. Lines and grade work in accordance with Drawings and Specifications shall be laid out by a registered Civil Engineer or Surveyor employed by the Contractor. The Contractor shall maintain all established bounds and bench marks and replace, as directed, any which may be disturbed or destroyed. The General Contractor shall pay all costs of the services of Civil Engineer or Surveyor.
- C. The Contractor shall check all Drawings and templates and shall report any errors in them to the Engineer, who will make or approve the necessary corrections. Any discrepancies not reported prior to construction shall not be the basis for claims for extra compensation.

1.10 PARTIAL USE OF SITE IMPROVEMENTS

- A. The Owner, at its election, may give notice to the Contractor and place in use those sections of the improvements which have been completed, inspected and can be accepted as complying with the Technical Specifications and accepted as complying with the Technical Specifications and if, in its opinion, each such section is reasonably safe, fit and convenient for the use and accommodation for which it was intended, provided:
 - 1. The use of such sections of the improvements shall in no way impeded the completion of the remainder of the work by the Contractor.
 - 2. The Contractor shall not be responsible for any damages or maintenance costs due directly to the use of such sections.
 - 3. The use of such sections shall in no way relieve the Contractor of his liability due to having used defective materials or due to poor workmanship.
- 5. The period of guarantee stipulated in the specifications shall not begin to run until the date of the final acceptance of all work which the Contractor is required to construct under this Contract.

1.11 CONTRACT DOCUMENTS AND DRAWINGS

Not Applicable

1.12 HISTORICAL, ARCHAEOLOGICAL OR ANTIQUE ITEMS

- A. The Contractor during his excavation, site clearance and other operations may come upon, uncover or otherwise discover items of historical, archaeological or antique nature. The Contractor shall immediately stop operations at the particular site of the discovery and notify the Owner so that a proper evaluation may be made of its importance. The Owner shall arrange for the evaluation in a manner that shall not unduly interfere with the Contractor's operations.
- B. All such items, if designated by competent authority to be historical, archaeological or antique nature shall not become the property of the Contractor but shall be placed in the custody of the Owner for disposition.
- C. The Contractor shall be required to remove with care or to assist in the removal of any such item or items and to transport the same to a place of safe keeping within the City of Somerville. The costs for so assisting shall be reimbursed to the Contractor if approved by the Project Manager.

1.13 FIRE PROTECTION AND PREVENTION

- A. The Contractor shall keep the site free of rubbish and construction debris at all times.
 - 1. He shall provide sufficient metal barrels or dumpsters into which all refuse and garbage shall be deposited. All containers shall have tight fitting covers. These shall be secured overnight or removed daily.
 - 2. At the end of each work week, the Contractor shall thoroughly clean premises of rubbish and debris of any nature, and remove such from the premises.

1.14 RUBBISH REMOVAL

- A. The Contractor and each Subcontractor shall remove all rubbish, waste, tools, equipment, and appurtenances caused by and used in the execution of his work; but this shall in no way be construed to relieve the Contractor of his primary responsibility for maintaining the site clean and free of debris, leaving all work in a clean condition.

1.15 TEMPORARY FACILITIES

- A. General Provisions
 - 1. Furnish all labor, materials, and services to fulfill the requirements for temporary facilities, at no additional cost to the Owner, and comply with all requirements set forth herein, except where said requirements are in conflict with Federal, State, or Local laws, rules, and regulations, in which case(s) the applicable Federal, State, or Local requirements shall govern.

1.24 PROTECTION OF EXISTING STRUCTURES

- A. All existing walks, pipes, conduits, poles, fences, stairways, curbing, walls, buildings, trees and other structures which are to remain in place shall be carefully supported and protected from injury by the Contractor without additional compensation and in case of injury they shall be restored by him without compensation therefore to as good condition as that in which they were found.
- B. The Contractor shall, at his own expense, provide suitable and safe bridges and other crossings, where required for accommodation of travel and to provide access to private property during construction, and shall remove said structures thereafter.
- C. Utility lines shown are located from the best information available. Services may not be shown. The existence of utilities which are normally located in the streets and not shown on the plans shall not be considered as an unusual obstacle, and the Contractor shall not be entitled to extra compensation for maintaining, protecting, or restoring utilities which he disturbs.

1.25 "CLEAN AIR ACT AND FEDERAL WATER POLLUTION CONTROL ACT"

- (h) All pertinent rules and regulations issued under and pursuant to the National Environmental Policy Act of 1969 as amended (P.L. 90-190) (42 USC 4321); the National Historic Preservation Act of 1966 (80 Stat. 915, 16 USC 470); the Wild and Scenic Rivers Act P.L. 90-542 as amended, and Executive Order No 11593 of May 31, 1971.
- (i) Flood insurance requirements, pursuant to the Flood Disaster Protection Act of 1973 (P.L. 93-234, 87 Stat. 975), as amended, and any regulations issued thereunder by the U.S. Department of Housing and Urban Development and/or the Economic Development Administration.
- (j) Parts 3, 5 and 5a, Subtitle A, Title 29, Code of Federal Regulations, as amended, which shall be applicable to every invitation for bids and to every negotiation, request for proposals, or request for quotations, for a construction contract and to every such contract entered into on the basis of such invitation or negotiation. Part 5a 3, Subtitle A., Title 29, Code of Federal Regulations shall constitute the conditions of each contract in excess of \$10,000, and each Grantee and contractor shall include these conditions or provide for their inclusion, in each such contract. Parts 5a. 4 5a. 5, 5a. 6 and 5a. 7 shall also be included in each such contract for the information of the contractor. Apprentices and trainees shall be hired in accordance with the requirements of Part 5a.

1.26 SPECIAL REQUIREMENTS

- A. The Contractor shall be aware that it is his responsibility to maintain the conditions of the fields, within the limit of work, that are not under construction at any specific time. This maintenance shall include but is not limited to lawn mowing and trash removal.

1.27 PHOTOGRAPHS OF PROJECT

- A. Prior to the beginning of work the Contractor shall take eight (8) photographs at locations approved by the Project Manager. Digital photographs are an acceptable substitute as long as the digital files are of sufficiently high resolution to make 8" x 10" prints.
- B. On the last work day of each month, for the duration of the contract, the Contractor shall take eight (8) additional photographs from essentially the same location as the original photographs to demonstrate the progress of work.

- C. In the forwarding or e-mailing the photos, note the date on which it was taken, the title of the project, the project number, the name of the Project Manager, the name of the General Contractor, and the identification of the location of the photograph. Submit one (1) copy of the photographs either as 8" x 10" prints or on a CD-ROM.

1.28 FULFILLMENT OF AAB REQUIREMENTS

- A. The Contractor shall build the wheelchair ramps to the 521 CMR 21 standards
- B. The Contractor shall hire a Design Professional to verify that all Architectural Access Board requirements set forth in 521 CMR 21.00 for curb ramps are fulfilled by the new construction.

SECTION 01010
SUMMARY OF WORK

PART 1 - GENERAL

1.01 SECTION INCLUDES

- A. Work by Owner
- B. Owner furnished products
- C. Contractor use of site
- D. Future work
- E. Work sequence

1.02 WORK BY OWNER

- A. None.

1.03 OWNER FURNISHED PRODUCTS

- 1. Omitted

1.04 CONTRACTOR USE OF SITE

- A. Refer to other sections of Project Manual for requirements with respect to time for performing work, project limits, access, etc.

1.05 FUTURE WORK

- A. None

1.06 WORK SEQUENCE

- A. Construct Work in stages to accommodate Owner's requirements during the construction period, coordinate construction schedule and operations with Owner and other contractors working on the site.

- **END OF SECTION 01010** -

SECTION 01019
CONTRACT CONSIDERATIONS

PART 1 - GENERAL

1.01 GENERAL INCLUDES

- A. Cash Allowances
- B. Contingency Allowance
- C. Inspection and Testing Allowances
- D. Schedule of Values
- E. Application for Payment
- F. Change Procedures
- G. Alternates

1.02 RELATED SECTIONS

- A. Proposal Form: Contract Sum, Unit Prices and Alternates.
- B. Section 01300 - Submittals: Schedule of Values.
- C. Section 01600 - Material and Equipment: Product substitutions and alternates.

1.03 CASH ALLOWANCES

None

1.04 CONTINGENCY ALLOWANCE

None

1.05 INSPECTION AND TESTING ALLOWANCES

None

1.06 SCHEDULE OF VALUES

- A. Submit typed schedule on approved City's forms.
- B. Submit Schedule of Values in duplicate within 15 days after date of Owner-Contractor Agreement. Schedule shall be approved by the Project Manager prior to submitting the first application for payment.

- C. Format: Utilize the format provided in the Invitation for Bids / Final Contract. Identify each sub-line items with number and title of the major specification Section. Identify site mobilization, bonds and insurance. Identify shop drawings and submittals as pay item. Compensation amount for this work category shall be approved by Owner.
- D. Revise schedule to list approved Change Orders, with each Application For Payment.

1.07 APPLICATION FOR PAYMENT

- A. Submit two (2) copies of each application on City's forms.
- B. Content and Format: Utilize Schedule of Values for listing items in Application For Payment.
- C. Payment conditions for payments to be requested under "stored materials provisions":
 - 1. Provide receipted invoice for purchased materials.
 - 2. Provide typed "certificate of title" transferring ownership of stored materials to Owner.
 - 3. Provide Certificate of Insurance for theft, damage and casualty loss for stored materials with Owner listed as beneficiary.
 - 4. Provide satisfactory evidence to Owner that stored materials are within safe storage area.

1.08 CHANGE PROCEDURES

- A. The Project Manager will approve minor changes in the Work not involving an adjustment to Contract Sum/Price or Contract Time.
- B. The Project Manager may issue a Proposal Request which includes a detailed description of a proposed change with supplemental or revised Drawings and specifications, a change in Contract Time for executing the change and the period of time during which the requested price will be considered valid. Contractor will prepare and submit an estimate within 7 days.
- C. The Contractor may propose a change by submitting request for change to the Project Manager, describing the proposed change and its full effect on the Work. Include a statement describing the reason for the change, and the effect on the Contract Sum/Price and Contract Time with full documentation (and a statement describing the effect on Work by separate or other contractors). (Document any requested substitutions in accordance with Section 01600.)
- D. Stipulated Sum/Price Change Order: Based on Notice of Change and Contractor's fixed price quotation (or Contractor's request for a Change Order as approved by the Project Manager).
- E. Change Order: Should certain additional work be required, or should the quantities of certain classes of work be increased or decreased from those on which the Contract Sum is based, by order or approval of the Owner, the supplemental unit prices may be used as the basis of payment to him or credit to the Owner for such addition, increase, or decrease in the work as determined solely by the Owner.

Supplemental unit prices shall cover all costs, and the prices given shall represent the exact amount per unit to be paid the Contractor (in the case of additions or increases) or to be refunded the Owner (in the case of decreases). No additional adjustments will be allowed for overhead, profit, insurance or other direct or indirect expense of Contractor or Subcontractor.

- F. Construction Change Authorization: The Project Manager may issue a directive on City's forms signed by the Owner, instructing the Contractor to proceed with a change in the Work, for subsequent inclusion in a Change Order. Document will describe changes in the Work, and designate method of determining any change in Contract Sum/Price or Contract Time. Promptly execute the change.
- G. Time and Material Change Order: Submit itemized account and supporting data after completion of change, within time limits indicated in the Conditions of the Contract. The Project Manager will determine the change allowable in Contract Sum/Price and Contract Time as proved in the Contract Documents.
- H. Maintain detailed records of work done on Time and material basis. Provide full information required for evaluation of proposed changes, and to substantiate costs for changes in the Work.
- I. Change Order Forms: City's Forms.
- J. Execution of Change Orders: The Project Manager will issue Change Orders for signature of parties as provided in the Conditions of the Contract.

- END OF SECTION 01019 -

SECTION 01030

ALTERNATES

1.01 REFERENCES

- A. Examine all drawings and all other specification sections for requirements related to this section.

1.02 SCOPE

- A. For each of the below listed alternates, each of the bidders shall state the amount in order of numbering.
- B. The work described by any or all of the below listed alternates may be accepted by the owner. The contract agreement shall list those which are accepted, if any, and the work of the contract shall thereby be modified to the extent described under the accepted Alternates. Also, the Contract sum for the project shall be altered on the basis of alternate prices given on the successful bidder's proposal.
- C. The description of alternates herein below and through the specifications are detailed to assist the Contractor and the various trades in understanding the work required thereby, and are intended to set the intent and to list the major work only. Such descriptions are not to be taken as limiting the work required under each of the accepted alternates to be done without additional cost to that agreed upon as the alternate price.

1.03 INSTRUCTIONS AND PROVISIONS

- A. Each Bidder shall be held fully responsible for examining the scope of the alternates generally defined herein and for recognizing any modifications to the work caused by any alternate whether or not the particular trade Section is mentioned therein.
- B. All Sections of work which are affected by the alternates will be considered work to be performed by the General Contractor.
- C. General bidders shall enter a single amount in the appropriate space provided in the Form for Bid, which total amount shall consist of the amount for all work to be performed by the General Contractor.
- D. The work of the various trades to be performed under Alternates shall be in strict accordance with the requirements of the particular trade.

1.04 DEDUCT ALTERNATE NO. 1 –

A. Scope

Eliminate all work associated with the three ramps set forth under Section 2.10: Cherry Street and Elm Street

1.05 DEDUCT ALTERNATE NO. 2 -

A. Scope

Eliminate the item at Somerville Avenue and Prospect Street to grind and repave entire intersection from 20-feet from each corner.

1.06 ADD ALTERNATE NO. 1-

A. Scope

Contractor shall provide and install: TBD

1.07 ADD ALTERNATE NO. 2

A. Scope

Contractor shall provide and install: TBD

1.08 ADD ALTERNATE NO. 3

A. Scope

Contractor shall provide and install: TBD

1.09 ADD ALTERNATE NO. 4

A. Scope

Contractor shall provide and install: TBD

- END OF SECTION 01030 -

SECTION 01039
COORDINATION AND MEETINGS

PART 1 - GENERAL

1.01 SECTION INCLUDES

- A. Coordination
- B. Field engineering
- C. Alteration project procedures
- D. Cutting and patching
- E. Pre-construction conference
- F. Progress meetings

1.02 COORDINATION

- A. Coordinate scheduling, submittals, and work of the various sections of specifications to assure efficient and orderly sequence of installation of interdependent construction elements.
- B. Verify that utility requirement characteristics of operating equipment are compatible with existing utilities. Coordinate work of various sections having interdependent responsibilities for installing, connecting to, and placing in service, such equipment.
- C. Coordinate space requirements and installation of mechanical work that are indicated diagrammatically on Drawings. Follow routing shown as closely as practicable. Utilize spaces efficiently to maximize accessibility for other installations for maintenance, and for repairs.
- D. In finished areas (except as otherwise indicated), conceal pipes within the construction.
- E. Coordinate completion and clean up of work of separate sections in preparation for Substantial Completion.
- F. After Owner occupancy of premises, coordinate access to site for correction of defective Work and Work not in accordance with Contract Documents, to minimize disruption of Owner's activities.

1.03 FIELD ENGINEERING

- A. Provide field engineering services. Establish elevations, lines, and levels, utilizing recognized engineering survey practices.

1.04 ALTERATION PROJECT PROCEDURES

- A. Materials: As specified in product Sections; match existing products and work for patching and extending work.
- B. Close openings in exterior surfaces to protect existing work from weather and extreme temperature and humidity.
- C. Remove, cut and patch work in a manner to minimize damage and to provide a means of restoring products and finishes to specified condition.
- D. Refinish visible existing surfaces to remain to specified conditions for each material, with a neat transition to adjacent finishes.
- E. Where new work abuts or aligns with existing, perform a smooth and even transition. Patched work to match existing adjacent work in texture and appearance.
- F. When finished surfaces are cut so that a smooth transition with new work is not possible, terminate existing surface along a straight line at a natural line of division and make recommendation to Landscape Architect review.
- G. Where a change of plane of 1/4 inch (6mm) or more occurs, submit recommendation for providing a smooth transition for Landscape Architect/Engineer review.
- H. Patch or replace portions of existing surfaces which are damaged, lifted, discolored, or showing other imperfections.
- I. Finish surfaces as specified in individual project Section.

1.05 CUTTING AND PATCHING

- A. Employ skilled and experienced installer to perform cutting and patching.
- B. Execute cutting, fitting, and patching including excavation and fill to complete work and to:
 - 1. Fit the several parts together, to integrate with other work
 - 2. Uncover work to install or correct ill-timed work
 - 3. Remove and replace defective and non-conforming work
 - 4. Provide openings in elements of work for penetrations of mechanical and electrical work.
- C. Execute work by methods which will avoid damage to other work, and provide proper surfaces to receive patching and finishing.
- D. Cut rigid materials using masonry saw or core drill.
- E. Restore work with new products in accordance with requirements of Contract Documents.
- F. Fit work tight to pipes, sleeves, ducts, conduit, and other penetrations through surfaces.

- G. Refinish surfaces to match adjacent finishes. For continuous surfaces, refinish to nearest intersection.

1.06 PRE-CONSTRUCTION CONFERENCE

- A. Owner will schedule a conference after Notice of Award.
- B. Attendance Required: Project Manager, Design Professional and Work Foreman
Optional: Engineer
- C. Agenda:
 - 1. Distribution of Contract Documents;
 - 2. Submission by Contractor of list of Subcontractors, list of products, Schedules of Values, and progress schedule;
 - 3. Designation of personnel representing the parties in Contract, and the Project Manager;
 - 4. Procedures and processing of field decisions, submittals, substitutions, applications for payment, proposal request, Change Orders and Contract closeout procedures;
 - 5. Scheduling

1.07 PROGRESS MEETINGS

- A. Schedule and administer meetings throughout progress of the Work at maximum weekly intervals.
- B. Attendance Required: Job superintendent, subcontractors and suppliers as requested by the Project Manager as appropriate to agenda topics for each meeting.
- C. Agenda:
 - 1. Review minutes of previous meetings;
 - 2. Review of Work progress;
 - 3. Field observations, problems and decisions;
 - 4. Identification of problems which impede planned progress;
 - 5. Review of submittals schedule and statues of submittals;
 - 6. Maintenance of progress schedule;
 - 7. Correcting measures to regain projected schedules;
 - 8. Planned progress during succeeding work period;
 - 9. Coordination of projected progress;
 - 10. Maintenance of quality and work standards;

11. Effect of proposed changes on progress schedules and coordination;
12. Other business relating to Work.

- END OF SECTION 01039 -

SECTION D1040
EXISTING CONDITIONS

1.01 GENERAL PROVISIONS

- A. The Conditions of the Contract and other Sections of Division I, General Requirements apply to this section.

2.01 EXISTING CONDITIONS

- A. Before submitting a bid, the Contractor shall make a thorough examination of the conditions at the site, checking the requirements of the Plans and Specifications with the existing conditions.
- B. No claim for extra compensation or extension of time will be allowed on account of the Contractor's failure to estimate properly the quantities, locations, and measurements of all items required to complete the work which could be discerned from visiting the site.
- C. The Contractor shall report any discrepancies to the Architect and request an interpretation.

3.01 EXISTING BUILDINGS AND SITE IMPROVEMENTS

- A. Design concepts presents are approximate and are intended for reference purposes only. It is the responsibility of the Bidders to visit the site and familiarize themselves with the site features to be improved and constructed. Before doing any work or ordering any material, Contractors shall visit make measurements of road, sidewalk and curb widths, road slopes and sidewalk cross slopes, locate existing obstructions, street furniture, utility structures and other site conditions that could affect construction of the ramps and compliance with the AAB requirements. No extra charge or compensation will be allowed for conditions that can be readily observed or disclosed through Dig — Safe and review of plans available from the City Engineer.

END OF SECTION

SECTION 01050
CONDUCT OF THE WORK

1.01 GENERAL PROVISIONS

- A. The Conditions of the Contract and other Sections of Division I, General Requirements apply to this section.

2.01 PROJECT MANAGEMENT

- A. The Contractor's attention is directed to the General Conditions.
- B. The Contractor shall take all necessary precautions to ensure the public safety and convenience during construction.
- C. The work must be completed in a continuous uninterrupted operation. The Contractor must use sufficient personnel and adequate equipment to complete all the necessary work requirements within a minimum period of time.
- D. Unless specifically authorized by the Owner, in writing, the work must be conducted between the hours of 7:00 a.m. and 7:00 p.m. on Monday through Saturday. No work is to be done on Sundays other than for emergencies, or unless specifically authorized by the Owner.
- E. The Contractor is responsible for the security of partially completed work until the project is accepted by the Owner.
- F. There shall be no unauthorized storage of materials, tools, or equipment on any adjacent private property.
- G. Only materials or equipment intended and necessary for immediate use shall be brought into the sites. At the end of each workday and at the completion of each phase of work, all rubbish, waste, tools, equipment and appurtenances caused by and used in the execution of the work shall be removed from the site unless otherwise specifically authorized by the Owner. No tools or materials may be left unattended on site unless in a secured area with no public access. The Contractor is responsible for maintaining a clean site free of debris, leaving all work in a clean condition.
- H. The Contractor shall develop a project schedule indicating time period and sequence for completion of work on the site. Upon approval, the project schedule shall be adhered to. Any deviations from the schedule could be subject to penalties at the discretion of the Owner. The work must be completed in a continuous uninterrupted operation, with sufficient personnel and adequate equipment to complete all necessary work requirements within minimum period of time. Contractor shall pay special attention to sequence of demolition and installation, in order to ensure site safety at all times.

3.01 COORDINATION

- A. The Contractor shall submit for approval to the Owner a detailed operational plan showing the sequence of operations prior to commencement of any work at the site. Any changes to this operational plan must be approved by the Owner.

- B. The Contractor must retain on the Work during its progress a competent full time representative, satisfactory to the Owner. This representative shall not be changed, except with the consent of the Owner. The representative shall be in full charge of the work and all instructions given to this person by the Owner shall be binding.
- C. The Contractor must supply to the Owner the home telephone number of a responsible person who may be contacted during non-work-hours for emergencies on the Project.

4.01 ALTERATION

- A. After installation of new work, the contractor shall patch, repair or replace all existing materials and surfaces that have been inadvertently damaged. All patch and repair work shall match existing.

5.01 RETAINED ITEMS

- A. The following items that are to be removed and are in good condition shall be retained by the Owner (at the discretion of the Owner) and shall be stored at a location directed by the Owner.

END OF SECTION

SECTION 01300

SUBMITTALS

PART 1 - GENERAL

1.01 SECTION INCLUDES

- A. Submittal procedures
- B. Construction progress schedules
- C. Proposed products list
- D. Shop drawings
- E. Product data
- F. Samples
- G. Manufacturers' instructions
- H. Manufacturers' certificates
- I. Construction photographs

1.02 RELATED SECTIONS

- A. Section 01019 - Contract Considerations: Schedule of Values.
- B. Section 01400 - Quality Control: Manufacturers' field services and reports.
- C. Section 01700 - Contract Closeout: Contract warranty, manufacturer's certificates and closeout submittals.

1.03 SUBMITTAL PROCEDURES

- A. Transmit each submittal with Project Manager accepted form (see sample at end of this section).
- B. Sequentially number the transmittal forms. Re-submittals shall have original number with an alphabetic suffix.
- C. Identify Project, Contractor, Subcontractor or supplier; pertinent Drawing sheet and detail number(s), and specification Section number, as appropriate.
- D. Apply Contractor's stamp, signed or initialed certifying that review, verification of Products required, field dimensions, adjacent construction work, and coordination of information, is in accordance with the requirements of the Work and Contract Documents.
- E. Schedule submittals to expedite the Project, and deliver to Project Manager at business address. Coordinate submission of related items.
- F. Identify variations from Contract Documents and Product or system limitations which may be detrimental to successful performance of the completed work.

- G. Provide space for Contractor and Architect review stamps (see sample at end of this section).
- H. Revise and resubmit submittals as required, identify all changes made since previous submittal.
- I. Distribute copies of reviewed submittals to concerned parties. Instruct parties to promptly report any inability to comply with provisions.
- J. Utilize submittal forms as provided (see sample at end of this section).
- K. Refer to sample review/approval form (see sample at end of this section).

1.04 CONSTRUCTION PROGRESS SCHEDULES

- A. Submit initial progress schedule in duplicate within 10 days after date of Owner-Contractor Agreement for Project Manager review.
- B. Revise and resubmit as required.
- C. Submit a horizontal bar chart with separate lines for each major section of work or operation, identifying first work day of each week.
- D. Show complete sequence of construction by activity, identifying Work of separate stages and other logically grouped activities. Indicate the early and late start, early and late finish, float dates, and duration.
- E. Indicate estimated percentage of completion for each item of Work at each submission.
- F. Indicate submittal dates required for shop drawings, product data, samples, and product delivery dates.

1.05 PROPOSED PRODUCT LIST

- A. Within 15 days after date of Notice to Proceed, submit complete list of major products proposed for use, with name of manufacturer, trade name, and model number of each product.
- B. For products specified only by references standards, give manufacturer, trade name, model or catalog designation, and reference standards.

1.06 SHOP DRAWINGS

- A. Submit in accordance with the general conditions of this Contract.

1.07 PRODUCT DATA

- A. Product data, and sample submissions shall clearly identify by note, mark, or labels the specification paragraph(s) applicable to each product.
- B. Product data shall be submitted to the Project Manager in packets with copies for distribution and filing as the Project Manager may prescribe, accompanied by an appropriate transmittal form. Product data shall include complete specifications, performance data, certified laboratory test report data, installation instructions, health and

safety precautions, and maintenance instructions, and shall show illustrated capacities, characteristics, wiring diagrams, controls, and other pertinent information for complete product and product use description. If more than one size or type is shown on any printed sheet, indicate clearly intended item(s).

- B. Mark each copy to identify applicable products, models, options, and other data. Supplement manufacturer's standard data to provide information unique to this project.
- C. After review, reproduce and distribute in accordance with Articles on Procedures above.
 - 1. When approved or disapproved, the Project Manager shall retain the copies. Submit sufficient copies for all other parties. No "Disapproved" or "Resubmit" copies shall be sent to the job site.

1.08 SAMPLES

- A. Submit samples to illustrate functional and aesthetic characteristics of the Product, with integral parts and attachment devices. Coordinate sample submittals for interfacing work.
- B. Submit samples of finishes, colors, textures, and patterns for the Landscape Architect's selection. Samples shall be clearly labeled as to its material, type or make, manufacturer, size or gauge, and other pertinent data.
- C. Include identification on each sample, with full Project information accompanied by an appropriate transmittal form.
- D. Submit the number or samples specified in individual specification Sections; one of which will be retained by the Landscape Architect.
- E. Reviewed samples which may be used in the Work are indicated in individual specification Sections.

1.09 MANUFACTURER'S INSTRUCTIONS

- A. When specified in individual specification Sections, submit manufacturers' printed instructions for delivery, storage, assembly, installation, start-up, adjusting, finishing, and maintenance in quantities specified for Product Data.
- B. Identify conflicts between manufacturers' instructions and Contract Documents, and notify the Project Manager in writing of such conflicts prior to fabrication, construction or application of the particular item.

1.10 MANUFACTURER'S CERTIFICATES

- A. When specified in individual specification Sections, submit manufacturers' certificate to the Project Manager for review, in quantities specified for Product Data.
- B. Indicate material or product conforms to or exceeds specified requirements. Submit supporting reference data, affidavits, and certifications as appropriate.
- C. Certificates may be recent or previous test results on material or Product, but must be acceptable to the Project Manager.

Date: _____
Project: _____

Dear Sirs:

The following shop drawings, catalog cuts, and/or manufacturer's specifications are submitted for your review to permit incorporation of the products into the work. These have been prepared by this office or received from manufacturers or installers in accord with the contract.

We have checked and approved the submitted information and certify that it complies with the intent of the contract documents, has been field verified, and meets necessary construction criteria. Any deviation from the requirements of the contract documents is stated below.

List of Submittals	Specification Page or Item
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

Deviations from Contract Requirements:

Very truly yours,

Contractor's Signature _____
Name _____
Title _____

SAMPLE REVIEW/APPROVAL FORM

☐ APPROVED

☐ APPROVED AS NOTED

Resubmission (is) required
(is not) required

☐ DISAPPROVED

Checked by:

Date:

The Construction Manager's approval of this is only for conformance with the design concept of the Project and compliance with the information given in the Contract to be confirmed and correlated to the job site; for quantities; for information that pertains solely to the fabrication processes or to techniques of Construction; and for the coordination of the work of all trades. This approval shall not relieve the Contractor from responsibility for deviations from drawings or specifications or errors to shop drawings or schedules.

- END OF SECTION 01300 -

SECTION 01400
QUALITY CONTROL

PART 1 - GENERAL

1.01 DESCRIPTION

- A. These general requirements apply to all work operations. Refer to other Division specification sections for specific general, product, and execution requirements.

1.02 SECTION INCLUDES

- A. Quality assurance and control of installation
- B. References
- C. Field samples
- D. Inspection and testing laboratory services

1.03 RELATED SECTIONS

- A. Section 01300 - Submittals: Submission of Manufacturer's Instructions and Certificates.
- B. Section 01600 - Material and Equipment: Requirements for materials and product quality.

1.04 QUALITY ASSURANCE/CONTROL OF INSTALLATION

- A. Monitor quality control over suppliers, manufacturers, products, services, site conditions, and workmanship, to produce work of specified quality.
- B. Comply fully with manufacturers' instructions, including each step in sequence.
- C. Should manufacturers' instructions conflict with Contract Documents, notify the Construction Manager.
- D. Perform work by persons qualified to produce workmanship of specified quality.
- E. Comply with specified standards as a minimum quality for the work except when more stringent tolerances, codes, or specified requirements indicate higher standards or more precise workmanship.
- F. Secure Products in place with positive anchorage devices designed and sized to withstand stresses, vibration, physical distortion or disfigurement.

1.05 REFERENCES

- A. Conform to reference standard by date of issue current on date of Contract Documents.
- B. Obtain copies of standards when required by Contract Documents.

1.06 FIELD SAMPLES

- A. Install field samples at the site as required by individual specification Sections for review.
- B. Acceptable samples represent a quality level for the Work.
- C. Where field samples are specified in individual Sections to be removed, clear area after field sample has been accepted by Project Manager.

1.07 INSPECTION AND TESTING LABORATORY SERVICES

- A. Owner may appoint, employ services of an independent firm to perform inspection and testing. Contractor shall be required to pay for all services required.
- B. The independent firm will perform inspections, tests, and other service specified in the individual specification Sections and as required by the Project Manager.
- C. Reports will be submitted by the independent firm to the Project Manager, in duplicate indicating observations and results of tests and indicating compliance or non-compliance with the Contract Documents.
- D. Cooperate with independent firm; furnish samples of materials, design mix, equipment, tools, and provide storage and assistance as required.
 - 1. Make arrangements with independent firm and pay for additional samples and tests required for contractor's use.
 - 2. Notify Project Manager and independent firm 24 hours prior to expected time of operations requiring services.
 - 3. The location for all testing to be performed shall be determined by the Project Manager. The schedule for all testing shall be approved by the Project Manager.
- E. Retesting required because of non-conformance to specified requirements shall be performed by the same independent firm on instructions by Owner. Payment for retesting will be charged to the Contractor.

- END OF SECTION 01400 -

SECTION 01500

CONSTRUCTION FACILITIES AND TEMPORARY CONTROLS

PART 1 - GENERAL

1.01 SECTION INCLUDES

- A. Temporary Utilities: Electricity, lighting, ventilation, water, and sanitary facilities.
- B. Temporary Controls: Barriers, fencing, water control, enclosures, protection of the Work, and security.
- C. Construction Facilities: Parking, progress cleaning, project signage, and temporary buildings.

1.02 RELATED SECTIONS

- A. Section 01700 - Contract Closeout: Final cleaning

1.03 TEMPORARY ELECTRICITY

- A. Provide and pay for power service required from Nstar.
- B. Provide power outlets for construction operations, with branch wiring and distribution boxes located as required. Provide flexible power cords as required.
- C. Provide main service disconnect and overcurrent protection at convenient location.

1.04 TEMPORARY LIGHTING

- A. Provide branch wiring from power source to distribution boxes with lighting conductors, pigtails, and lamps as required.
- B. Maintain lighting and provide routine repairs.

1.05 TEMPORARY WATER SERVICE

- A. Connect to existing water source for construction operations.
- B. Extend branch piping with outlets located so water is available by hoses with threaded connections. Provide temporary pipe insulation to prevent freezing.
- C. Obtain necessary permits from the City of Somerville; pay all costs of permit and water used during term of contract.

1.06 TEMPORARY SANITARY FACILITIES

- A. Provide and maintain required facilities and enclosures. Existing facilities shall not be used.

1.07 BARRIERS

- A. Provide barriers to prevent unauthorized entry to construction areas and to protect existing facilities and adjacent properties from damage from construction operations and demolition.
- B. Provide protection for plants designated to remain. Replace damaged plants.
- C. Protect non-owned vehicular traffic, stored materials, site and structures from damage.

1.08 FENCING

- A. Provide safety fencing as needed and as directed by the Project Manager.

1.09 WATER CONTROL

- A. Grade site to drain. Maintain excavations free of water. Provide, operate, and maintain pumping equipment.
- B. Protect site from puddling or running water. Provide water barriers as required to protect site from soil erosion.

1.10 PROTECTION OF INSTALLED WORK

- A. Protect installed Work and provide special protection where specified in individual specification Sections.
- B. Provide temporary and removable protection for installed Products. Control activity in immediate work area to minimize damage.
- C. Provide protective coverings at walls, projections and openings.
- D. Protect surfaces from traffic, dirt, wear, damage, or movement of heavy objects, by protecting with durable sheet materials.

1.11 SECURITY

- A. Provide security and facilities to protect Work and existing facilities from unauthorized entry, vandalism, or theft.
- B. Coordinate with Owner's security program.

1.12 PARKING AND SITE ACCESS

- A. Arrange for temporary off-site parking to accommodate construction personnel.

1.13 PROGRESS CLEANING

- A. Maintain areas free of waste materials, debris, and rubbish. Maintain site in a clean and orderly condition.
 - a. Remove waste materials, debris, and rubbish from site weekly and dispose off-site.

1.14 PROJECT IDENTIFICATION

- A. Erect 4-foot by 6-foot sign with the City Seal, Mayor's name and 311 information on site at a location established by Project Manager.
- B. No other temporary signs are allowed without Owner's permission except those required by law.

1.15 REMOVAL OF UTILITIES, FACILITIES, AND CONTROLS

- A. Remove temporary above grade or buried utilities, equipment, facilities, materials, prior to Final Application for Payment inspection.
- B. Remove underground installations to a minimum depth of 2 feet (600 mm). Grade site as indicated.
- C. Clean and repair damage caused by installation or use of temporary work.

1.16 POLICE DETAIL

- A. Contractor shall cover the cost of any police detail necessary for completion of the work.

- END OF SECTION 01500 -

SECTION 01510

PROTECTION

1.01 PROTECTION OF PERSONS & PROPERTIES

- A. Any damage to buildings, roads, (public and private), bituminous concrete areas, fences, lawn areas, trees, shrubbery, poles, underground utilities, etc. shall be made good by and at the Contractor's own expense, all to the satisfaction of the Owner. Any plantings, shrubbery, lawn areas and all other site amenities damaged by the Contractor shall be replaced, re-seeded, or otherwise restored to their original condition, at the Contractor's expense. No trucks or equipment of any type shall be allowed to drive over lawns, planted areas, and sidewalks at any time under any circumstances, unless such areas are included in the improvement work, and until such areas are to be actually improved as shown in the work schedule.
- B. The Contractor shall patch, repair and/or replace all adjacent materials and surfaces damaged after the installation of new work at no expense to the Owner. All repair and replacement work shall match the existing in kind and appearance.
- C. Damaged property shall be returned to its proper condition within a reasonable time period except all utility outages shall be repaired immediately.
- D. Existing trees damaged irreparably, as determined by the City, shall be replaced. Replacement costs for each damaged tree shall be:
 - 1. 6-12" caliper \$1,800.
 - 2. 12-18" caliper \$2,500.
 - 3. over 18" caliper \$3,500.

2.01 TEMPORARY PROTECTION

- A. The Contractor shall:
 - 1. Protect excavations, trenches, and materials at all times from rain water, ground water, backing-up, or leakage of sewers, drains, or other piping, or from water damage of any origin. Provide all pumps, piping, coverings, and other materials and equipment as required by job conditions to accomplish this requirement.
 - 2. Protect decks and slabs to receive work by other trades from any soiling which will prevent proper adhesion of subsequent Work. Decks and slabs shall be left clean and free of blemishes at the time other trades begin the application of their work.
 - 3. Protect all surfaces to receive work by other trades from any soiling which will prevent proper execution of subsequent work
 - 4. Any areas damaged by the Contractor shall be restored to the original condition or compensated at the Contractor's expense.
- B. Roof surfaces and waterproofed surfaces shall not be subjected to traffic nor shall they be used for storage of materials. Where some activity must take place in order to carry out the Work, adequate protection must be provided.
- C. After the installation of the Work by any Subcontractor is completed, the Contractor shall be responsible for its protection and for repairing, replacing, or cleaning any such Work which has been damaged by other trades or by any other cause, so that all Work is in first class condition at the time of Substantial Completion.

3.01 ACCESS

- A. The Contractor shall, at all times, leave an unobstructed way along walks and roadways, and shall maintain barriers and lights for the protection of all persons and property in all locations where materials are stored or work is in progress.

4.01 SECURITY

- A. The Contractor shall be responsible for providing all security precautions necessary to protect the Contractor's and Owner's interests.
- B. Where excavation is involved, the Contractor shall be responsible for providing continuous watchmen service as necessary, to insure adequate protection of the general public.

5.01 NOISE AND DUST CONTROL

- A. The Contractor shall take special measures to protect the residents, neighbors, and general public from noise, dust, and other disturbances by:
 - (1.) Keeping common pedestrian and vehicular circulation areas clean and unobstructed;
 - (2.) Insulating work area from occupied portions as far as possible; and
 - (3.) Sealing dust and fumes from contaminating adjacent areas.

6.01 FIRE PROTECTION

- A. The Contractor shall take necessary precautions to insure against fire during construction. The Contractor shall be responsible to insure that the area within contract limits is kept orderly and clean and that combustible rubbish and construction debris is promptly removed from the site.
- B. Installation of equipment suitable for fire protection shall be done as soon as possible after commencement of the Work. The Contractor's attention is directed to the requirements of the Commonwealth of Massachusetts, Department of Labor and Workforce Development Regulation 454 CMR.

7.01 WIND PROTECTION

- A. Should high wind warnings be issued by the U.S. Weather Bureau, the Contractor shall take every precaution to minimize danger to persons, to the Work, and to the adjacent property.

8.01 WEATHER PROTECTION

- A. The Contractor shall provide Weather Protection as required by Specification Section 01500 Temporary Facilities and any other specific requirements of the Contract Documents.

END OF SECTION

SECTION 01520

CLEANUP

1.01 RELATED DOCUMENTS

- A. This section supplements the General Conditions.
- B. Consult the individual sections of the specifications for cleaning of Work installed under those sections.

2.01 CLEANING DURING CONSTRUCTION

- A. Conduct cleaning and disposal operations to comply with local ordinances and anti-pollution laws.
 - 1. Do not burn or bury rubbish and waste materials on the site.
 - 2. Do not dispose of volatile wastes such as mineral spirits, oil, or paint thinner in storm or sanitary drains.
 - 3. Do not dispose of wastes into streams or waterways.
- B. Wet down dry materials and rubbish to lay dust and prevent blowing dust.
- C. Maintain the site free from accumulations of waste, debris, and rubbish.
- D. Provide on-site containers for collection of waste materials and rubbish.
- E. At the end of each day, remove and legally dispose waste materials and rubbish from site.
- F. Schedule cleaning operations so that dust and other contaminants resulting from cleaning process will not fall on wet, newly painted surfaces.
- G. Disposal of materials shall be in compliance with all applicable laws, ordinances, codes, and by-laws.

3.01 FINAL CLEANING

- A. Prior to submitting a request to the Project Manager to certify Substantial Completion of the Work, the Contractor shall inspect the site and verify that all waste materials, rubbish, tools, equipment, machinery, and surplus materials have been removed; and that all sight-exposed surfaces are clean. Leave the project clean and ready for occupancy.
- B. Unless otherwise specified under other sections of the Specifications, the Contractor shall perform final cleaning operations as herein specified prior to final inspection.
- C. Cleaning shall include all surfaces, interior and exterior, which the Contractor has had access to, whether new or existing.
- D. Use only cleaning materials recommended by the manufacturer of the surface to be cleaned.
- E. Use cleaning materials which will not create a hazard to health or property and which will not damage surfaces.

- F. Remove grease, mastic, adhesive, dust, dirt, stains, labels, fingerprints, and other foreign materials from sight-exposed interior and exterior surfaces. This includes cleaning of the Work of all finishing trades where needed, whether or not cleaning by such trades is included in their respective specifications.
- G. Repair, patch, and touch up marred surfaces to the specified finish, to match adjacent surfaces.
- H. Polish glossy surfaces to a clear shine.
- I. Do the final cleaning of resilient floors and wood floors as specified under the respective sections of the Specifications.
- J. In cleaning items with manufacturer's finish or items previously finished by a Subcontractor, care shall be taken not to damage such manufacturer's or Subcontractor's finish. Any damage to finishes caused by cleaning operations shall be repaired at the Contractor's expense.
- K. Broom clean exposed concrete surfaces and paved surfaces. Rake clean other surfaces of grounds.
- L. Contractor's responsibility for cleaning ceases at Substantial Completion.

END OF SECTION

SECTION 01600
MATERIAL AND EQUIPMENT

PART 1 - GENERAL

1.01 SECTION INCLUDES

- A. Products
- B. Transportation and handling
- C. Storage and protection
- D. Product options
- E. Substitutions

1.02 RELATED SECTIONS

- A. Section 01400 - Quality Control: Product quality monitoring.

1.03 PRODUCTS

- A. Products: means new material, machinery, components, equipment, fixtures, and systems forming the Work. Does not include machinery and equipment used for preparation, fabrication, conveying and erection of the Work. Products may also include existing materials or components required for reuse.
- B. Do not use materials and equipment removed from existing premises, except as specifically permitted by the Contract Documents.
- C. Provide interchangeable components of the same manufacturer, for similar components.

1.04 TRANSPORTATION AND HANDLING

- A. Transport and handle products in accordance with manufacturer's instructions.
- B. Promptly inspect shipments to assure that products comply with requirements, quantities are correct, and products are undamaged.
- C. Provide equipment and personnel to handle products by methods to prevent soiling, disfigurement, or damage.

1.05 STORAGE AND PROTECTION

- A. Store and protect products in accordance with manufacturer's instructions, with seals and labels intact and legible. Store sensitive products in weather-tight, climate controlled enclosures.
- B. For exterior storage of fabricated products, place on sloped supports, above ground.

- C. Provide off-site storage and protection when site does not permit on-site storage or protection.
- D. Cover products subject to deterioration with impervious sheet covering. Provide ventilation to avoid condensation.
- E. Store loose granular materials on solid flat surfaces in a well-drained area. Prevent mixing with foreign matter.
- F. Provide equipment and personnel to store products by methods to prevent soiling, disfigurement, or damage.
- G. Arrange storage of products to permit access for inspection. Periodically inspect to assure products are undamaged and are maintained under specified conditions.

1.06 PRODUCT OPTIONS

- A. Products Specified by Reference Standards or by Description Only: Any product meeting those standards or description.
- B. Products Specified by Naming One or More Manufacturers: with a Provision for Substitutions: Submit a request for substitution for any manufacturer not named.

1.07 SUBSTITUTIONS

- A. The Engineer will consider requests for substitutions only within 20 days after date of Owner-Contractor Agreement.
- B. Substitution may be considered when a product becomes unavailable through no fault of the contractor.
- C. Document each request with complete data substantiating compliance of proposed substitution with Contract Documents.
- D. A request constitutes a representation that the Contractor:
 - 1. Has investigated proposed product and determined that it meets or exceeds the quality level of the specified product.
 - 2. Will provide the same warranty for the substitution as for the specified product.
 - 3. Will coordinate installation and make changes to other Work which may be required for the Work to be completed with no additional cost to Owner.
 - 4. Waives claims for additional costs or time extension which may subsequently become apparent.
- E. Substitutions will not be considered when they are indicated or implied on shop drawing or product data submittals, without separate written request, or when acceptance will require revision to the Contract Documents.
- F. Substitution Submittal Procedure:
 - 1. Submit three copies of requests for Substitution for consideration. Limit each request to one proposed Substitution.

2. Submit show drawings, product data, and certified test results attesting to the proposed product equivalence.
3. The Engineer will notify Contractor, in writing, of decision to accept or reject request.

- END OF SECTION 01600 -

SECTION 01700
CONTRACT CLOSEOUT

PART 1 - GENERAL

1.01 SECTION INCLUDES

- A. Closeout procedures
- B. Final cleaning
- C. Adjusting
- D. Project record documents
- E. Warranties
- F. Spare parts and maintenance materials

1.02 RELATED SECTIONS

- A. Section 01500 - Construction Facilities and Temporary Controls: Progress cleaning.

1.03 CLOSEOUT PROCEDURES

- A. Submit written certification that Contract Documents have been reviewed, Work has been inspected, and that Work is complete in accordance with Contract Documents and ready for the Project Manager.
- B. Provide submittals to the Project Manager that are required by governing or other authorities.
- C. Submit final Application for Payment identifying total adjusted Contract Sum, previous payments, and sum remaining due.
- D. Owner will occupy all of the site as specified in Section 01039.

1.04 FINAL CLEANING

- A. Execute final cleaning prior to final inspection.
- B. Clean surfaces exposed to view.
- C. Clean equipment and fixtures to a sanitary condition.
- D. Clean site; sweep paved areas, rake clean landscaped surfaces.
- E. Remove waste and surplus materials, rubbish, and construction facilities from the site.

1.05 ADJUSTING

- A. Adjust operating Products and equipment to ensure smooth and unhindered operation.

1.06 PROJECT RECORD DOCUMENTS

- A. Pursuant to the GENERAL SPECIFICATIONS, the Contractor shall maintain at the site for the Owner, readily available to the Project Manager for inspection, one record copy of all Drawings, Specifications, Addenda, Change Orders, and other Modifications, in good order and market currently to record all changes made during construction, and approved Product Data and Samples.

The Project Manager will periodically inspect these record drawings, and their proper maintenance shall be a condition precedent to approval of requisitions for periodic payments. One set of prints of all of the Documents required for this purpose will be provided by Owner, without charge to the Contractor. All the record documents, shop drawings, product data, and samples shall be made available to the Project Manager and shall be delivered to her for the Owner upon completion of the work.

Maintain on site, one set of the following record documents; record actual revisions to the Work:

1. Contract Drawings
 2. Specifications
 3. Addenda
 4. Change Orders and other Modifications to the Contract
 5. Reviewed shop drawings, product data, and samples.
- B. Store Record Documents separate from documents used for construction.
- C. Record information concurrent with construction progress.
- D. Specifications: Legibly mark and record at each Product section description of actual Products installed, including the following:
1. Manufacturer's name and product model and number
 2. Product substitutions or alternates utilized
 3. Changes made by Addenda and Modifications.
- E. Record Documents: Legibly mark each item to record actual construction including:
1. Spot elevations of the constructed, finish elevations.
 - a. Document as-built spot elevations at all drainage structure rims, high points, low points, utility structures, and at all locations where proposed spot elevations are shown on the Drawings.
 2. Measured horizontal and vertical locations of underground utilities and appurtenances, referenced to permanent surface improvements.
 3. Field changes of dimension and detail.
 4. Details not on original Contract Drawings.

- F. In addition, at the completion of the work, the contractor shall provide a set of marked-up working drawings showing as built changes to the original construction plans to the Project Manager.

1.07 WARRANTIES

- A. Provide duplicate notarized copies.
- B. Execute and assemble documents from Subcontractors, suppliers and manufacturers.
- C. Provide Table of Contents and assemble in three D side ring binder with durable plastic cover.
- D. Submit prior to final Application for Payment.
- E. For items of Work delayed beyond date of Substantial Completion, provide updated submittal within ten days after acceptance, listing date of acceptance as start of warranty period.

1.08 SPARE PARTS AND MAINTENANCE MATERIALS

- A. Provide products, spare parts, maintenance and extra materials in quantities specified in individual specification Sections.
- B. Deliver to and place in location as directed. Obtain receipt prior to final payment.

1.09 OPERATING AND MAINTENANCE MANUAL

- A. Omitted
- B. The manual shall include service, maintenance and cleaning instructions for all manufactured products, finishes, and systems.
- C. Each volume of the manual shall be clearly indexed, and shall include a directory of all Subcontractors, material suppliers, local maintenance organizations, indicating the area of responsibility of each, and the name and telephone number of the responsible member of each organization.
- D. All material shall be bound in order and sequence conforming to the Specification numbering system. Typewritten, drawn or photographic materials shall be protected by clear plastic sleeves.
- E. The manuals shall be submitted at time of substantial completion of the project and initial occupancy by the Owner. The Contractor shall maintain and operate the systems for the project until the approved manuals are transmitted to the Owner and the Owner's personnel are instructed in its operation.

- END OF SECTION 01700 -

SECTION 01720
SURVEYS AND RECORD DRAWINGS

1.01 SURVEYS

A. (not applicable)

2.01 RECORD DRAWINGS

- A. Record Drawings shall consist of all the Contract Documents and Engineering Plans available from the City Engineer.
- B. The Contractor and the above Subcontractors shall keep their marked-up As-Built drawings of the Engineering Plans set on the site at all times and note on it in colored ink or pencil, neatly and accurately, at the end of each working day, the exact location of their work as actually installed. This shall include the location and dimensions of underground and concealed Work, and any design, mechanical, or electrical variations from the Contract Drawings. All changes, including those issued by Addendum, Change Order, or instructions by the Engineer shall be recorded. Marked-up As-Built drawings shall be prepared for the entire project and include all Work, including but not limited to:
1. The location of all underground utilities and appurtenances referenced to permanent surface improvements, both horizontally and vertically at ten (10) foot intervals and at all changes of direction.
 2. The location of all internal utilities and appurtenances, concealed by finish materials, including but not limited to valves, coils, dampers, vents, cleanouts, strainers, pipes, junction boxes, turning vanes, variable and constant volume boxes, ducts, traps, and maintenance devices.
 - a. The location of these items shall be shown by offsets to structure and drawing grid lines.
 - The tolerance for the actual location of these items on the marked-up As-Built Drawings shall be plus or minus two (2) inches.
 - Each item shall be referenced by showing a tag number, areas served, and function on the marked-up As-Built drawing
- C. The Engineer may periodically inspect the marked-up As-Built plans at the site. The proper and current maintenance of the information required on these drawings shall be a condition precedent to approval of the monthly applications for payment.
- D. At Substantial Completion the Contractor shall submit the complete set of marked-up As-Built drawings to the Engineer. The Contractor shall check all marked-up As-Built plans prepared by subcontractors and certify in writing on the title sheet of the drawings that they are complete and correct, prior to submission to the Engineer.
- E. The Engineer shall review the marked-up As-Built drawings and verify by letter to the Owner that the Work is complete. The Engineer shall incorporate all changes onto original drawings.
- F. The Contractor may make a written request for copies of the completed Record Drawings. The Contractor shall reimburse the Owner directly for the cost of printing of any requested Record Drawings.
- G. Submission of accurate marked-up As-Built drawings and their approval by the Engineer shall be a condition precedent to final payment.

END OF SECTION

SECTION 02000 - SITE SPECIFIC GUIDELINES

1.00 General Guidelines

ADA Requirements

Each curb shall meet the latest requirements of the Americans with Disabilities Act for outdoor curb ramps (See Appendix A). Several factors need to be achieved to construct a curb ramp that will be usable by ALL pedestrians. For perpendicular curb ramps, the ramp slope must be perpendicular to the grade break at the gutter line.

The curb ramp landing and gutter connection need to be constructed so water does not pond at the base of the ramp or on the landing and debris does not accumulate. Debris and water reduce the usability of a curb ramp. The ramp and the landing need to be wide enough to be used by all users of the sidewalk system. If at all possible, the curb ramp slope needs to be aligned with the sidewalk and crosswalk to provide an additional cue to assist the visually impaired and blind persons in aligning to cross the street. Paired curb ramps on a corner allow better alignment for people using mobility aids and for pedestrians with vision impairments and make it easier to separate the APS.

Design Professional

The contractor shall hire a design professional, approved by the Project Manager, who will certify that each ramp has been constructed in accordance with the appropriate requirements for construction of outdoor curb ramps under the ADA.

Detectable Warnings

Continuous detectable warnings are required to delineate the pedestrian area from the street area. The detectable warning strip shall be 2 feet wide and be brick red. The installation shall be done in accordance with MassHighway Engineering Directive E-04-007. (Attached)

Concrete and Gravel

Concrete shall be six (6) inches thick air entrained cement concrete, reinforced with No. 4, four by six (4x6) inch mesh, 4000 psi concrete, wood float finished, laid on a base of at least eight (8) inches of compacted base gravel. An expansion joint (3/4 inch open) shall be provided at least every twenty (20) feet; dividing joints shall be scored into walk every four (4) feet. Base gravel material shall be dense graded crushed stone; no stone shall have a dimension in excess of two (2) inches, and shall be compacted to ninety-five (95) percent.

Pedestrian Impact Recovery Signs

Use White Sign **Pedestrian Crosswalk Unit** or equivalent.

White Sign, 45 Dempsey Greaves Lane, Stillwater, ME 04489

<http://www.whitesign.biz/impact.htm>

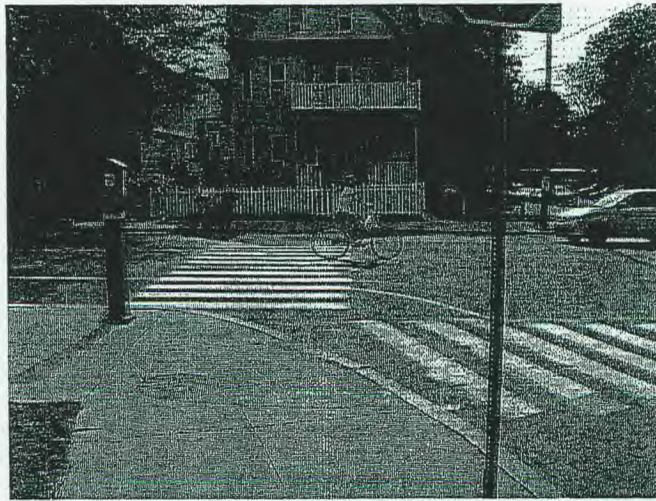
2.00 Site-Specific Guidelines

2.10 Cherry Street and Elm Street

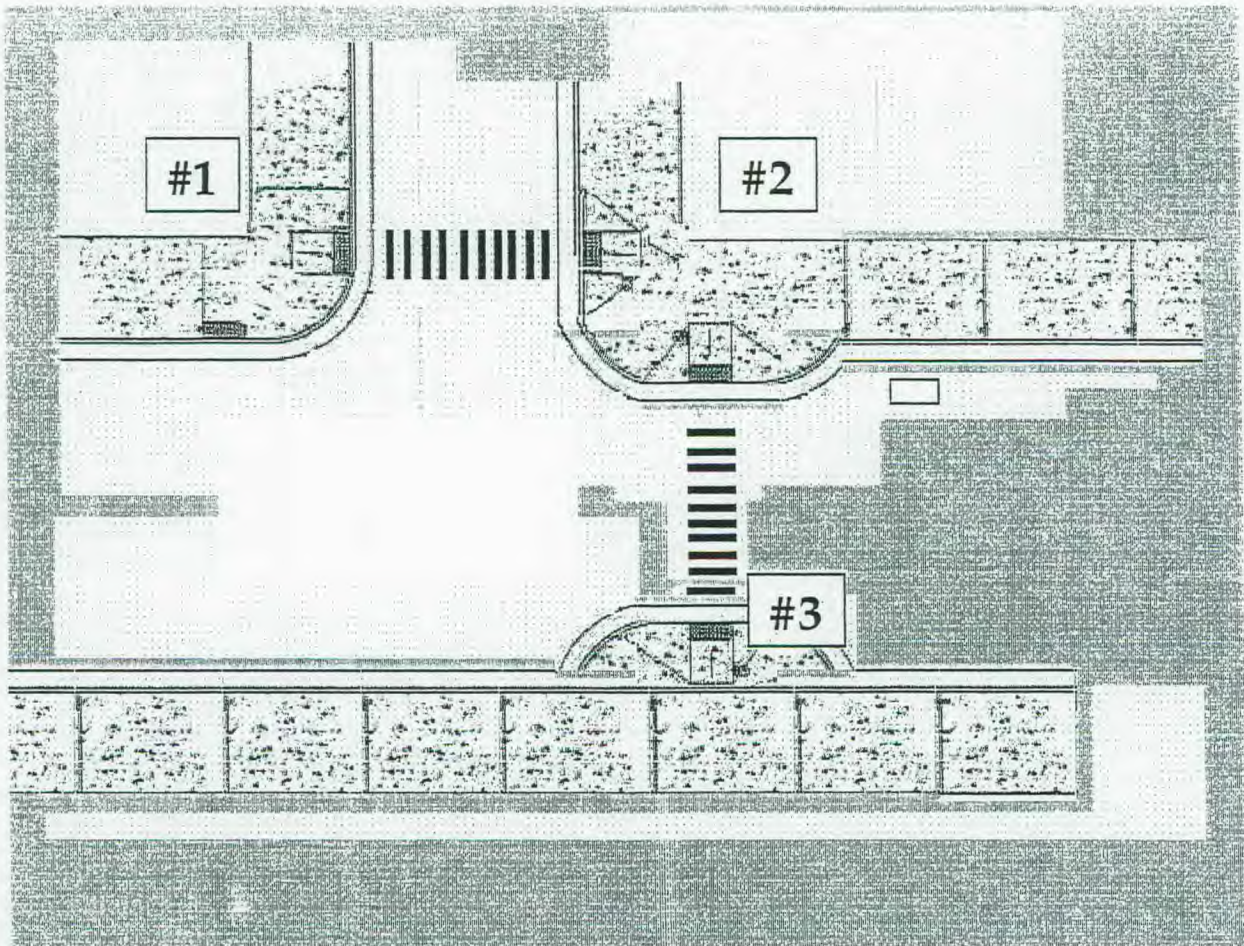
2.11 Site Constraints

An existing fire alarm box prevents the location of a ramp across Elm Street on the southeast corner. A catch basin access manhole cover is located on the northeast corner. A handhold cover is located on the southeast corner.

2.12 Location Photos



2.13 Design Template: Perpendicular Ramps with landings



Perpendicular Curb Ramp—10-foot sidewalk on tangents

2.14 Site Specific Requirements

This site will need to have the following work performed:

Ramp #1:

- install 6-foot ramp more in line with Pedestrian Accessible Route
- ensure slopes meet 1:12 requirement
- replace all corner sidewalk panels that are showing age (4 ,~ 8' X 8' panels)
- reset manhole cover as necessary to square off corner
- remove and reset mailbox and other street furniture.

Ramp #2

- Remove and shorten the height of the Fire Alarm box so that the pull lever is no more than 54" from ground level.
- Relocate Fire Alarm box to allow ADA ramp.
- Install perpendicular ramps – 6-feet in length on a curb extension 4-wide and 15-feet long
- New curbing as necessary to reduce curb height to comply with ADA requirements
- Joint 4-foot landing
- Relocate Pedestrian crossing sign
- Add catch basin.

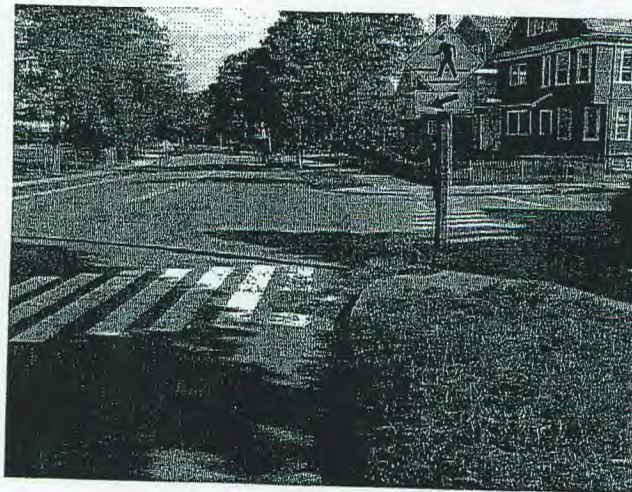
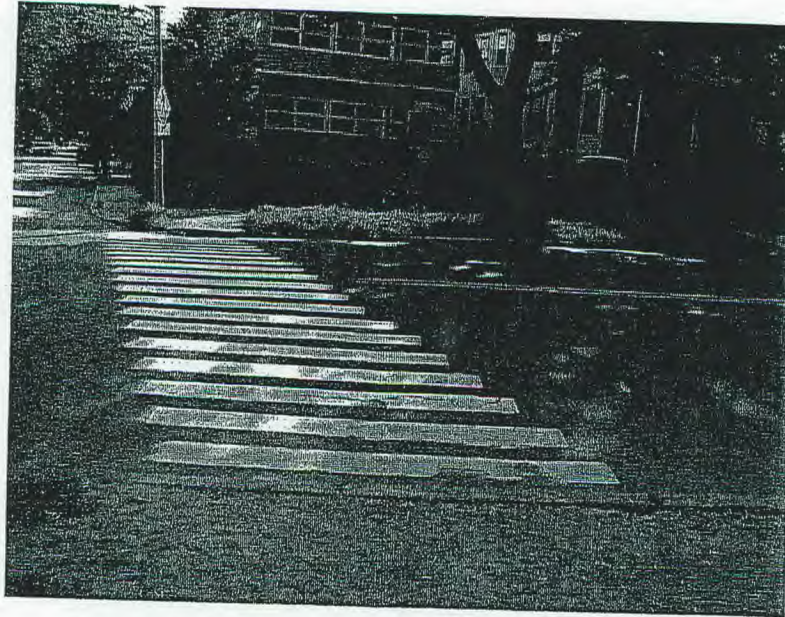
Ramp #3

- Relocate Curb Ramp to directly across from new Ramp #2
- Install curb-extension 4-wide and 15-feet long
- Bolt Pedestrian Impact Recovery Signs onto bulb-outs

2.20 Burnham Street and Powder House Boulevard

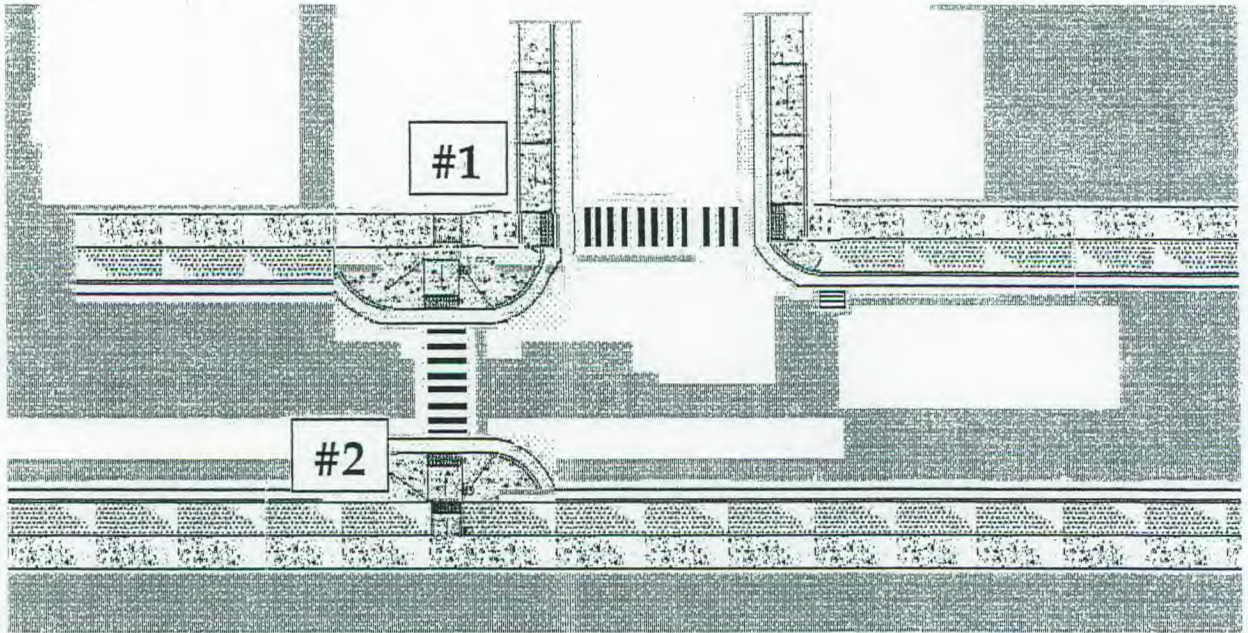
2.21 Constraints: Existing crosswalk location lacks an ADA ramp. A storm drain sits in the middle of the existing crosswalk.

2.22 Location Photos:



2.23 Design Template: Move existing crosswalk to the southeast side of Burnham to avoid drainage .

Perpendicular Curb Ramps and 4-foot by 15-foot curb extensions



Perpendicular Curb Ramp—7' 6" parkway with 7' 8" sidewalk on tangents

2.24 Site Specific Requirements

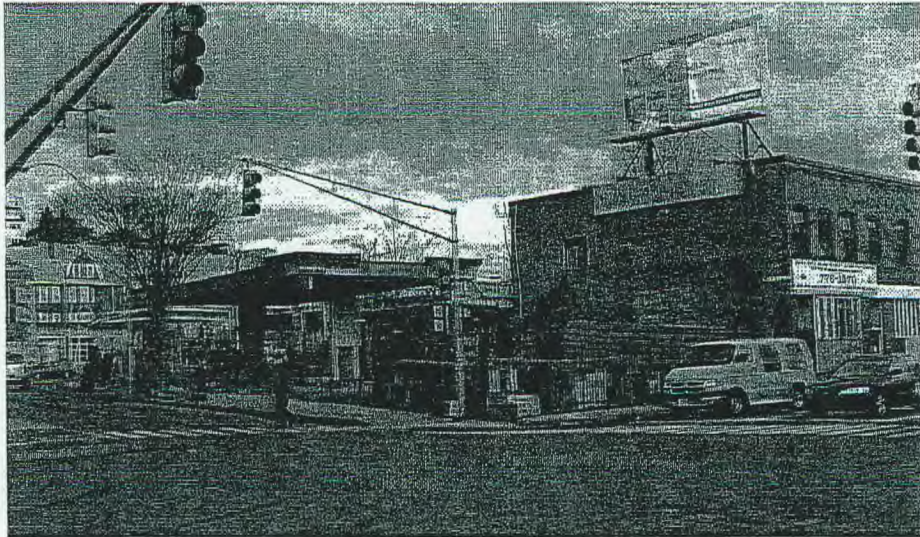
- Remove existing concrete pad at new and existing crosswalk location.
- Place new ramp on curb extension and grass area between curb and sidewalk.
- Install a perpendicular ADA ramp at that location and another ramp immediately across from this ramp on the Tufts University side of Powder House Boulevard.
- Grind out existing crosswalk, repave and stripe new thermoplastic, ladder -style crosswalk at new location.
- Place top-soil in location of former concrete pad and reseed
- Reseed parkway strip as necessary on Tufts side.
- Bolt Pedestrian Impact Recovery Signs onto bulb-outs

2.30 Somerville Avenue and Prospect Street

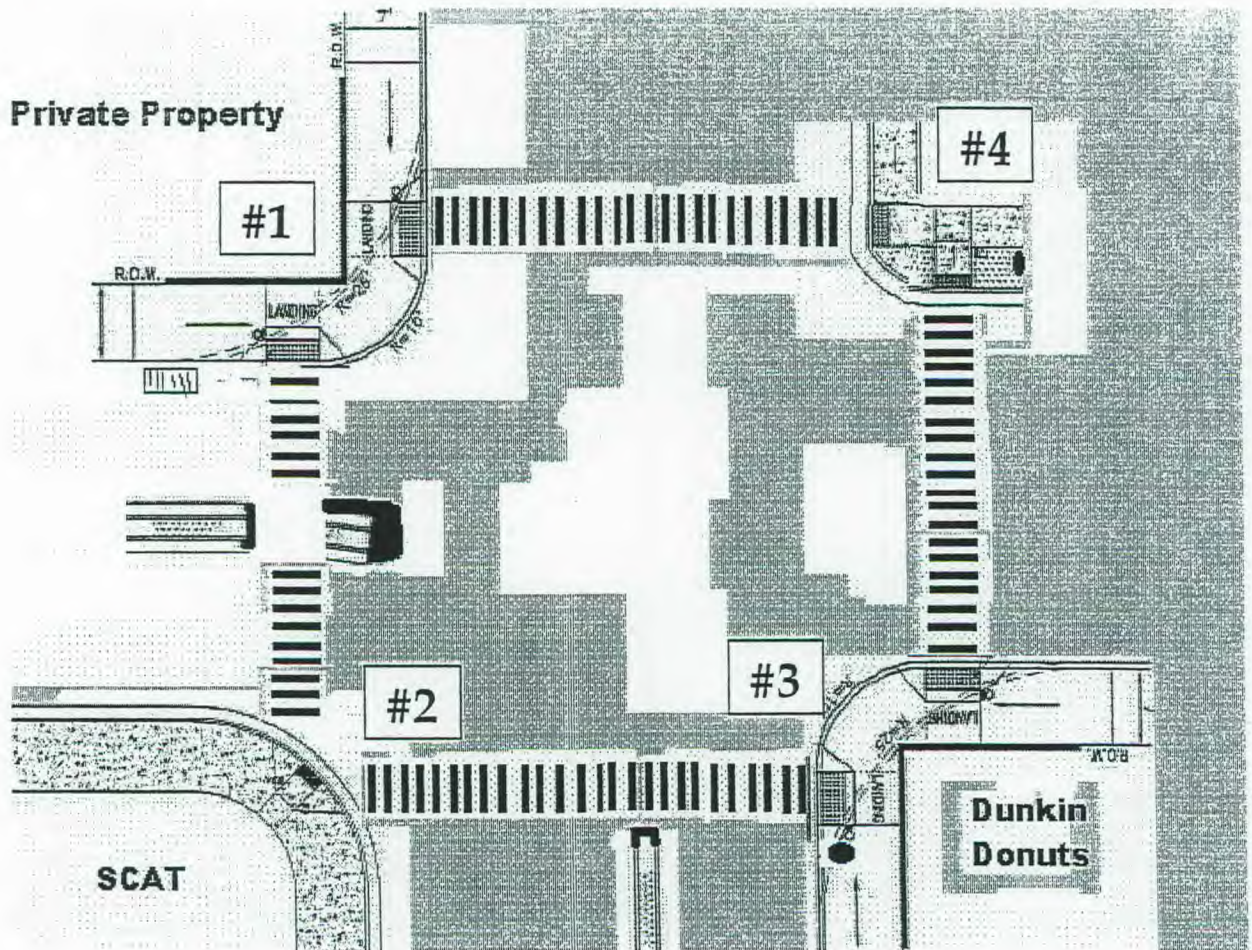
2.31 Site Constraints

Existing street improvements, including vehicle lanes and sidewalks, consume the entire right-of-way. There is insufficient space for the installation of an accessible curb ramp and landing at a street intersection that will meet new construction standards. Detectable warning surfaces provide a critical message to blind travelers where the sidewalk is flush with the street.

2.32 Location Photo:



2.33 Design Template: Lower Sidewalk to Street Surface (Blended Transition)



2.34 Site Specific Requirements

- The contractor shall remove the existing sidewalk and curbing a distance far enough from the intersection to meet the 1:12 slope requirements.
- Contractor shall make necessary street drainage changes/additions to prevent pooling of water in the ramp.
- The contractor shall reset curbing as necessary and install concrete to a depth of six inches on a compacted gravel base of eight inches.
- Grind and repave entire intersection from 20-feet from each corner.
- Paint ladder-type crosswalks at each location (non-thermoplastic paint).

Curb Ramps #1:

- The existing storm drainage catch basin sits under the sidewalk and the manhole cover is in the sidewalk. The existing stormwater catch basin must be removed. A new storm drain catch basin must be installed that catches drainage before the modified ramp and is located entirely within the street. Install new storm drain 10-feet from existing storm drain location;
- Demolish sidewalk around the corner;
- Slope down from existing sidewalks to a landing that wraps around the corner;
- Reduce width of curb cut on Somerville Avenue to 30 feet;
- Leave ~4" curb reveal around the corner: and
- Construct ~ 4-foot length ramps to appropriate ADA Standards

Curb Ramp #2

- Demolish existing sidewalk and curb ramp as necessary;
- Install 6-foot corner apex -type ramp.
- Square off traffic island between ramp #1 and #2 to align with new locations.

Curb Ramp #3

- Remove bench and store
- Remove and reset "Do Not Enter Sign"
- Reduce curb height around corner to ~4 inches. Create ~4 foot ramp with 4-foot landing (che

Curb Ramp #4

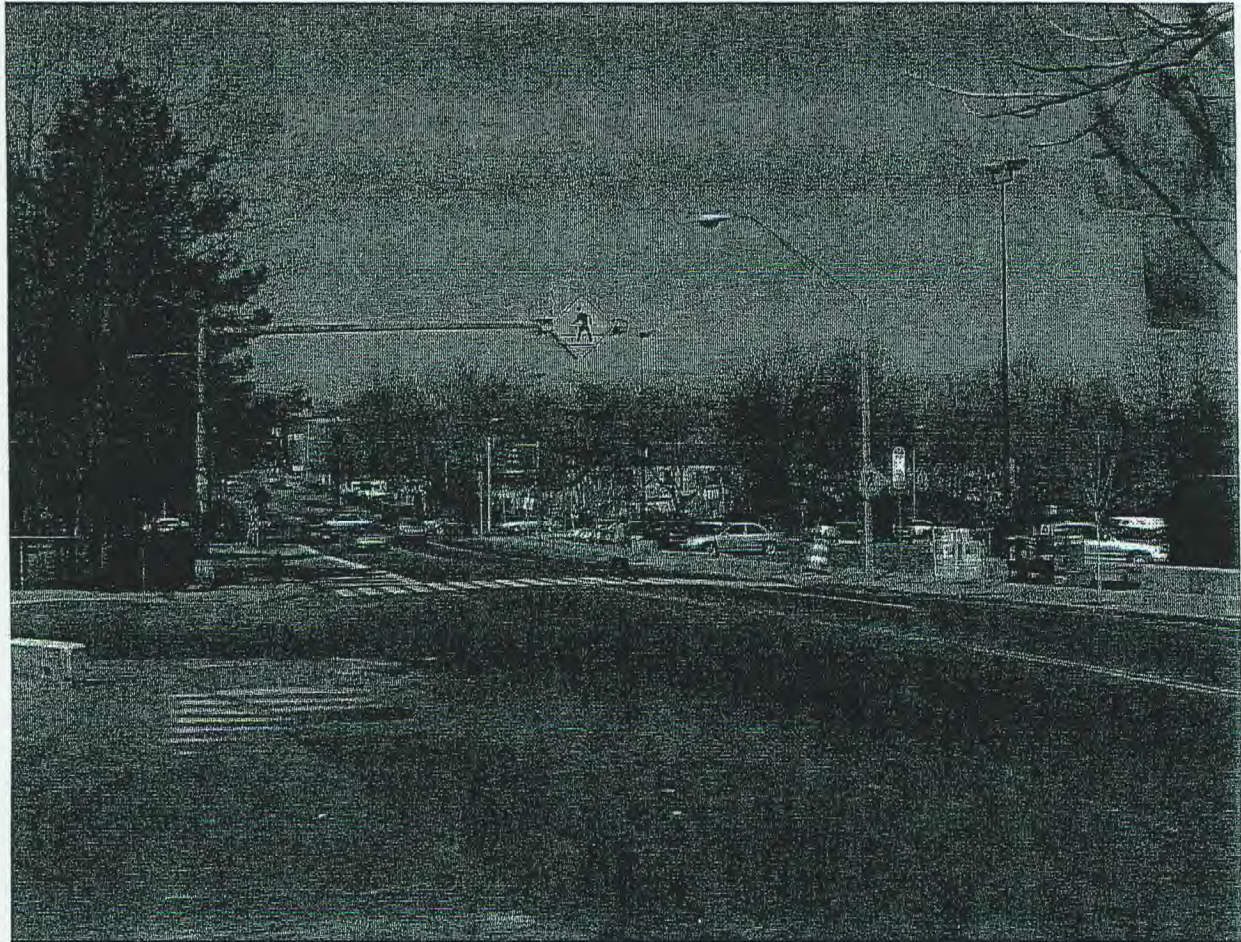
- Demolish existing sidewalk and ramps;
- Relocate N-Star anchoring pole;
- Install 6-foot ramps with 4-foot landings to line up with ramps #1 and #3.

2.40 Broadway at Clarendon Hills Towers Driveway

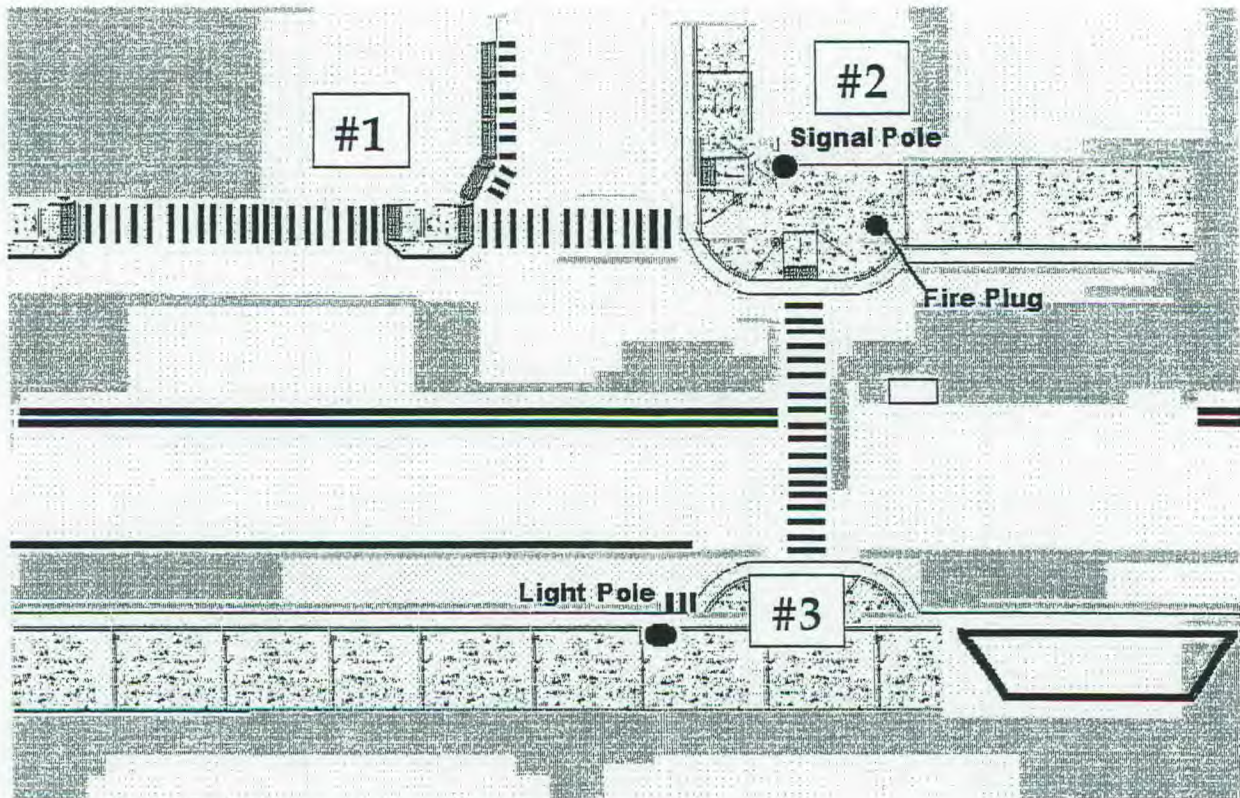
2.41 Site Constraints

A ramp landing must be constructed between the driveways to the Clarendon Hill Towers and an MBTA Busway. An existing overhead flashing pedestrian warning signal will remain in place. An MBTA bus stop is located across the street from the driveways.

2.42 Location Photos



2.43 Design Template: Perpendicular Ramps with landings



Perpendicular Curb Ramp – 10-foot sidewalk on tangents

2.44 Site Specific Requirements

This site will need to have the following work performed:

Ramp #1:

- Ramp up 6 inches from Clarendon Hills Tower Driveway to a landing and then down to MBTA driveway.
- Raise manhole cover
- ensure slopes meet 1:12 requirement

Ramp #2

- Reconstruct driveway sidewalk 15-feet back from intersection with proper cross slopes.
- Install perpendicular ramps – 6-feet in length on a curb extension 4-wide and 15-feet long
- New curbing as necessary to reduce curb height to comply with ADA requirements
- Joint 4-foot landing.
- Bolt Pedestrian Impact Recovery Signs onto bulb-out

Ramp #3

- Relocate Curb Ramp to directly across from new Ramp #2
- Install curb-extension 4-wide and 15-feet long
- Bolt Pedestrian Impact Recovery Signs onto bulb-outs

521 CMR 21.00: CURB CUTS

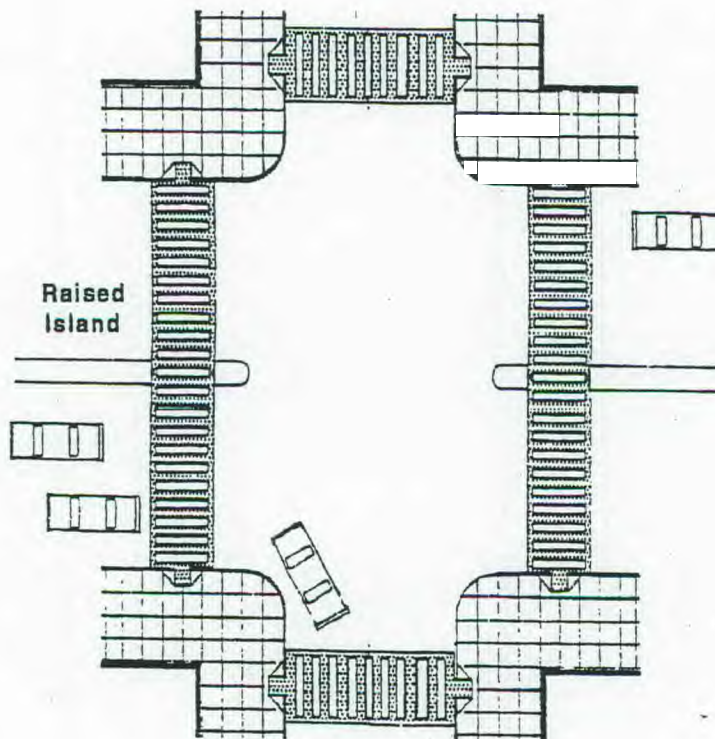
21.1 GENERAL

Whenever *sidewalks, walkways, or curbs on streets and ways are constructed, reconstructed, or repaired, curb cuts* are required. All *curb cuts* shall comply with the following:

21.2 LOCATION

Curb cuts shall occur wherever an *accessible route* crosses a curb and at the following locations:

- 21.2.1 *Curb cuts* are required at each corner of each intersection, located within the crosswalk and/or the pedestrian path of travel. *Curb cuts* shall be perpendicular to the curb at street crossings and each shall have a *level landing* at the top. At marked crossings, the bottom of the *ramp run*, exclusive of flared sides, shall be wholly contained within the marked crossing. See Fig. 21a. The crosswalk/pedestrian path of travel must also be perpendicular to the curb.



Curb Cuts at Intersection
Figure 21a

Exception: Where pedestrian right-of-way established width will not accommodate a perpendicular *curb cut* and landing, a parallel public *sidewalk curb cut* with a level landing at its bottom shall be provided instead of a perpendicular *curb cut*.

- 21.2.1.1 *Apex curb cuts*: Where site constraints prevent the installation of a perpendicular *curb cut* or a parallel *curb cut* with a level landing, an apex curb cut is allowed. Site constraints include the following:

21.00: CURB CUTS

- a. Driver or pedestrian line of sight to or from the front of the level landing on the ramp is impaired, preventing safe observation of crosswalks or approaching traffic at the intersection by a significant immovable or unalterable streetscape feature such as a building, structure or historic element, etc.
- b. Stop line is beyond the allowed limit as stated in the Manual on Uniform Traffic Control Devices.
- c. Vaults containing electrical, telecommunications, etc. that are under or on the existing sidewalk.
- d. Large radius intersections which are 30 feet or greater.

- 21.2.1.2 When apex *curb cuts* are installed a 48 inch (48" = 1219mm) landing shall also be provided at the bottom of the *curb cut* and located within the marked crosswalk.

- 21.2.2 *Reciprocal curb cuts*: When *curb cuts* or *sidewalks* are being *constructed* or *reconstructed* on one side of the street, and when such *curb cuts* or *sidewalks* are connected to an opposite side of the street by one or more pedestrian paths of travel, then at least one *curb cut* shall be provided on the opposite side of the street where such side is controlled by the same owner.

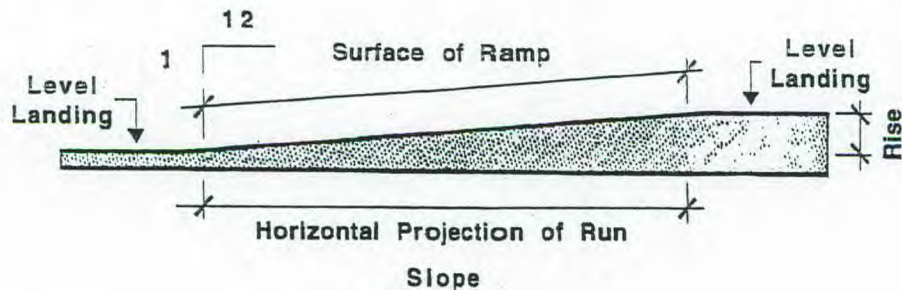
- 21.2.3 *Driveways*: *Curb cuts* are required at driveways intersecting *sidewalks* when the driveway has side curbs.

- 21.2.4 *Raised Islands*: Any raised islands in crossings shall be cut through level with the street or have *curb cuts* at both sides and a level area at least 48 inches (48" = 1219mm) long between the *curb cuts* in the part of the island intersected by the crossings.

- 21.2.5 *Obstructions*: *Curb cuts* shall be located or protected to prevent their obstruction by parked vehicles.

21.3 SLOPE

The least possible slope should be used for any ramp. The maximum slope shall be one-in-12 (1:12) (8.3%). Where *sidewalks* are too narrow to install a straight-line *curb cut* at a slope of one-in-12 (1:12) (8.3%), the sides of the *curb cut* shall not exceed one-in-12 (1:12) (8.3%). See Fig. 21b. The maximum cross-slope for any *curb cut* shall be 1:50 (2%). (There is no tolerance allowed on slope requirements). (Refer to 521 CMR 2.4.4d).



Slope
Figure 21b

21.00: CURB CUTS

21.4 TRANSITIONS

Transitions from *curb cuts* to *walks*, *gutters*, or *streets* shall be flush or free of changes in *level* greater than $\frac{1}{2}$ inch ($\frac{1}{2}$ " = 13mm). Maximum slopes of adjoining gutters, road surface immediately adjacent to the curb cuts, or accessible route shall not exceed one-in-20 (1:20) (5%).

21.5 DRAINAGE

Grading and drainage shall be designed to minimize pooling of water, accumulation of ice, or flow of water across the base of the *curb cut*.

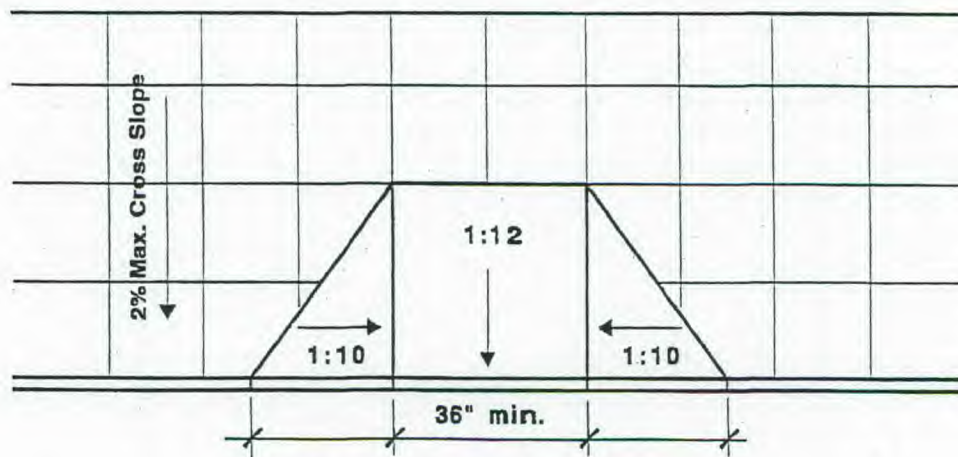
21.6 WIDTH

The minimum width of a *curb cut* shall be 36 inches (36" = 914mm), exclusive of flared sides. See Fig. 21c.

21.6.1 Landing width: Where a perpendicular *curb cut* is provided, a landing the width of the *curb cut* shall be provided at the top of the *curb cut*. The landing shall be 48 inches (48" = 1219mm) in length. The slope of said landing shall not exceed one-in-50 (1:50) (2%) in any direction.

21.7 FLARED SIDES

Sides of *curb cuts* shall extend at least 24 inches (24" = 610mm) at the curb. The maximum slope of the flare is one-in-ten (1:10) (10%). Curbing at the flared sides must blend with the slope of the flared sides. See Fig. 21c.



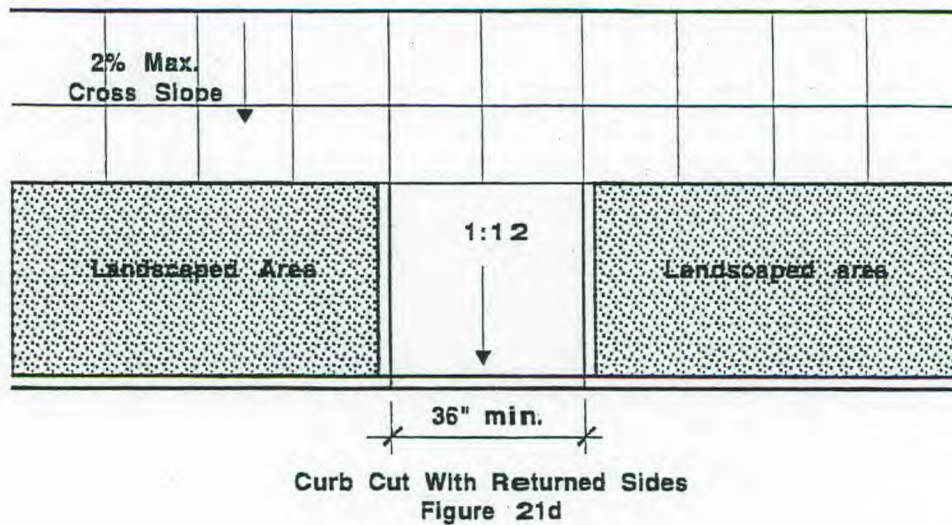
Curb Cut with Flared Sides
Figure 21c

21.8

RETURNED SIDES

Curb cuts with returned sides are only permitted where they are protected by handrails pursuant to 521 CMR 24.5, Handrails or where pedestrian travel across the *ramp* is obstructed by permanently installed street hardware or landscaping. See Fig. 21d.

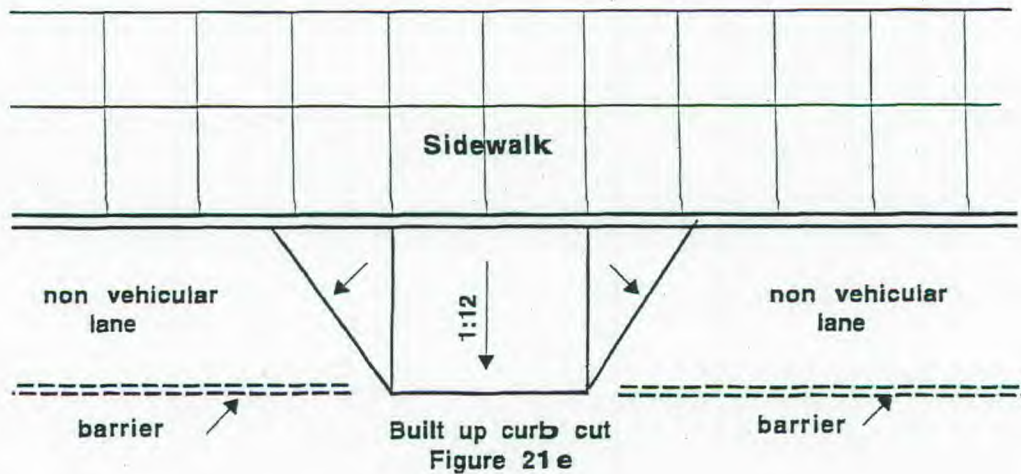
21.00: CURB CUTS



21.9

BUILT-UP CURB CUTS

Built-up curb cuts are allowed only where they do not project into vehicular traffic lanes. See Fig. 21e.



21.10

PEDESTRIAN STREET CROSSINGS

Where provided, pedestrian street crossings at, above, or below grade shall comply with the following:

21.10.1

Crossing controls shall be raised from or flush with their housings and shall be a minimum of two inches (2" = 51mm) in the smallest dimension. The force required to activate controls shall be no greater than 5 lbs.

21.10.2

Location: Controls shall be located as close as practicable to the curb cut serving the controlled crossing and shall permit operation from a clear ground space.

21.00: CURB CUTS

- 21.10.3 Mounting Height: Pedestrian-actuated crossing controls shall be a maximum of 42 inches (42" = 1067mm) above the finished *sidewalk*.
- 21.10.4 *Clear ground space*: A stable and firm area, complying with 521 CMR 6.5, **Forward Reach**, or 521 CMR 6.6, **Side Reach** shall be provided at the controls. Where a parallel approach is provided, controls shall be within ten inches (10" = 254mm) horizontally of and centered on the *clear ground space*. Where a forward approach is provided, controls shall abut and be centered on the *clear ground space*.
- 21.11 DETECTABLE WARNINGS - Reserved until further notice.
- 21.12 ACCESSIBLE PEDESTRIAN SIGNALS - Reserved.

APPENDIX B
Contractor's Bid Price - Form for General Bid
(From Bid Book)

ATTACHMENT **BID FORM FOR ALTERNATES**

The following are DEDUCT ALTERNATES which, if adopted by the City, shall decrease the Contractor's base bid.. The City reserves the right to determine the lowest responsible and eligible bidder on the basis of the (1) bidders' base bids, or (2) bidders' base bids less Alternate #1, or (3) the bidders' base bids less Alternates #1 and #2.

DEDUCT ALTERNATE #1	DEDUCT
Eliminate Elm & Cherry Street work:	\$ 22,400.00
DEDUCT ALTERNATE #2	DEDUCT
Eliminate 5.1 Grind/Overlay intersection - Prospect	\$ 18,400.00

ADA Ramp Construction (12 ramps)	Project Price
Base Bid (same as on Form for General Bid)	\$ 135,900.00
Base Bid less Deduct Alternate #1:	\$ 22,400.00
Base Bid less Deduct Alternates #1 and #2	\$ 18,400.00

Executed this 13TH day of FEB 2009.

On behalf of SEQUOIA CONSTRUCTION INC
(Undersigned Bidder Name)

10 BUCKLEY AVE SUITE 9 WHITMAN, MA 02382
(Business Address) and (Telephone) 781-447-8052
KEVIN McCLOUD

By: 1 VIOLET STREET LAKEVILLE, MA 02347
(Name and Address of Person Signing Bid)

TREASURER
(Title of Person Signing bid)

Addendum No.2, IFB 09-40CD

Schedule of Values

Item No.	Description of Work	Funding Source
1	Contract Requirements	
	1.1 Bonds and Insurance	2,500
	1.2 Mobilization / Temporary Facilities	10,000
	1.3 Schedule/submittals	5,000
	1.4 Permits	1,000
	1.5 Police Details	18,790
	1.6 Traffic Planning and Control Devices	3,000
2	Site Preparation	
	N/A	
3	Demolition	
	3.1 Remove and Store Street Furniture	1,380
	3.2 Sawcut & excavate sidewalk, curb and ramps	6,000
	3.3 Dispose/Recycle Material	2,000
4	Ramp installation	
	4.1 Compact Gravel Base of Crushed Stone	1,500
	4.3 Granite Curbing –reset existing	2,000
	4.4 Granite Curbing –new	5,000
	4.5 4000 PSI Concrete	7,000
	4.6 Ramp Construction	18,335
	4.7 Detectable Warnings	3,300
	4.8 Certification by Design Professional	5,500
5	Paving & Surfacing	
	5.1 Grind/Overlay Intersection - Prospect	18,400
	5.2 Grind/Overlay Old Crosswalk Powder house	4,140
	5.3 Lay and grade Hot Asphalt at ramps	3,100
6	Site Specific Installation	
	6.1 New Catch Basin: Elm at Cherry	4,140
	6.2 Remove and replace Crosswalk Signs	500
	6.3 Remove and Reset Manhole Height/Slopes	2,000
	6.4 Remove, Modify and Replace Fire Alarm Box	3,000
	6.5 Relocate Storm Drain –Prospect @Somerville Ave	5,000
	6.6 Pedestrian Impact Signs	1,000
7	Lawn & Planting	
	7.1 Seeding along Powder House Bld	1,000
8	Painting X-walks	
	8.1 Temporary Paint	1,315
	Total (Must Equal Bid Amount)	135,900
Deduct Alternative #1	Eliminate Elm & Cherry Work	22,400
Deduct Alternative #2	Eliminate Item 5.1 Grind/Overlay Intersection - Prospect	18,400

**FORM FOR GENERAL BID
FOR CONSTRUCTION CONTRACT**

To the Awarding Authority

A. The undersigned proposes to furnish all labor and materials required for:

ADA RAMP CONSTRUCTION @ 4 LOCATIONS
(project)

SOMERVILLE
(city or town)

in accordance with the accompanying plans and specifications.

B. This bid includes addenda numbered 1 -

C. proposed contract price is ONE HUNDRED THIRTY FIVE

THOUSAND NINE HUNDRED DOLLARS
(total bid in words)

\$ 135,900.00
(total bid in figures)

D. If there is attached a "Bid Form for Alternates", the Bidder shall fill in prices for each alternate. All blank spaces must be filled in. The omission of any item will result in the rejection of a bid. The price of each alternate shall include its pro rata share of overhead and profit. **(See attached Bid Form for Alternates)**

E. The Undersigned Bidder agrees that, if it is selected as general contractor, it will within five days, Saturdays, Sundays and legal holidays excluded, after presentation thereof by the Awarding Authority, execute a contract in accordance with the terms of this bid and furnish a performance bond and also a labor and materials or payment bond, each of a surety company qualified to do business under the laws of the Commonwealth of Massachusetts and satisfactory to the Awarding Authority and each in the sum of the contract price, the premiums for which are to be paid by the general contractor and are included in the contract price.

F. The Undersigned Bidder hereby certifies that it is able to furnish labor that can work in harmony with all other elements of labor employed or to be employed on the Project and that it will comply fully with all laws and regulations applicable to this Award, including applicable provisions if MGL Chapter 149, ss. 44A - J and MGL Chapter 30, ss. 39M et seq.

G. The Undersigned Bidder further certifies under the penalties of perjury that this bid is in all respects bona fide, fair and made without collusion or fraud with any other person. As used in this subsection the work "person" shall mean any natural person, joint venture, partnership, corporation or other business or legal entity.

H. The Undersigned Bidder agrees to comply with federal and state equal opportunity and labor requirements, including payment of prevailing wages (either state prevailing wages, or federal Davis Bacon wages – the applicable wage rates are included in the bid documents

I. The Undersigned Bidder certifies that it is a (Sole Proprietorship, General Partnership, Limited Partnership, Corporation, Trust, Joint Venture) CORP, that the Federal Employer Identification Number (EIN) of the Bidder is # 04-3181294 and that it is in compliance with all federal, state, and local laws regarding taxation, and that:

1) if a Sole Proprietorship, it conducts business under the name _____, and that a D/B/A Certificate has been filed with the Clerk of the City of Somerville, and that the residential address of the sole proprietor is _____, and that the Bidder has been conducting business under that name for _____ years.

2) if a General Partnership, then name of the General Partnership is _____, the General partnership has been doing business under that name for _____ years, and the names and residential addresses of the General Partners are _____

3) if a Limited Partnership, the name of the Limited partnership is _____, the Limited Partnership has been doing business under that name for _____ years, the names and residential addresses of the General Partners of the Limited Partnership are _____

and, a Certificate of Limited Partnership (obtainable from the Secretary of the Commonwealth) is submitted with this Form for Bid.

4) If a Corporation, the Bidder is incorporated in the State of MA, the name of the Corporation is SEQUOIA CONSTRUCTION INC.. The Corporation has been doing business under that name for 15 years, the names and residential addresses of its officers are:

President: Nancy McCloud

Treasurer: KEVIN McCloud

Clerk: EDWARD McCloud

and a current Certificate of Legal Existence, (obtainable from the Secretary of the Commonwealth for Massachusetts corporations and non-Massachusetts corporations which are properly registered as foreign corporations doing business in the Commonwealth), is submitted with this Form for Bid.

5) if a Joint Venture, the name of the Joint Venture is

the Joint Venture has been operating under that name for _____ years, the names and business addresses of the Joint Venturers are:

the above-requested information regarding individual business entities is furnished for each joint venturer as follows

and that a copy of the joint venture agreement is furnished with this Form for Bid.

- J. The Undersigned Bidder certifies under penalties of perjury that the Bidder is not presently debarred from doing federal or state public construction work, that the Bidder has not had its low bid rejected by any municipality in the previous two years, except _____, in which case the reasons for rejection were as follows:

- K. The Undersigned Bidder certifies that the following three projects were completed during the previous six years and may be contacted by the Awarding Authority as references:

Name of Town & Project	\$Amount	Name and Tel. No. of Contact
------------------------	----------	------------------------------

BOSTON, MA PETER'S PARK	1,000,000. ⁰⁰	JOSH BRUGER - 617-399-7000 x22
BOSTON, MA FRANKLIN FIELD HOUSING	978,000. ⁰⁰	DAVID BIANCAVILLA - 617-896-7347
WINCHESTER, MA SANDY BEACH PLAYGROUND	300,000. ⁰⁰	MAT THURLOW - 617-626-1250

- L. The Undersigned Bidder understands that the contractor and subcontractors will be required to pay prevailing wages to laborers and mechanics, and that if the Undersigned's bid is significantly below the average bid, the Awarding Authority may require the Bidder to substantiate that the bid is based on payment of wages at prevailing rates.

M. An itemized Schedule of Values is attached with this Form for Bid.

Executed this 13TH day of FEB 2009.

On behalf of SEQUOIA CONSTRUCTION INC.
(Undersigned Bidder Name)

10 BUCKLEY AVE SUITE 9 WHITMAN, MA 02382
(Business Address) and (Telephone) 781-447-8052

By: KEVIN MCLOUD
1 VIOLET STREET LAKEVILLE, MA 02347
(Name and Address of Person Signing Bid)

TREASURER
(Title of Person Signing bid)

APPENDIX C
General Conditions

**GENERAL TERMS AND CONDITIONS OF THE CONTRACT
FOR CONSTRUCTION, RECONSTRUCTION, ALTERATION,
REMODELING, OR REPAIR OF ANY PUBLIC BUILDING OR PUBLIC WORK
IN THE CITY OF SOMERVILLE**

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**GENERAL TERMS AND CONDITIONS OF THE CONTRACT
FOR CONSTRUCTION, RECONSTRUCTION, INSTALLATION,
DEMOLITION, MAINTENANCE, OR REPAIR OF ANY
PUBLIC BUILDING OR PUBLIC WORK
IN THE CITY OF SOMERVILLE**

ARTICLE 1: DEFINITIONS

1.1. In General.

1.1.1. Well-known meanings. When words or phrases that have a well-known technical, or construction industry, or trade meaning are used in the Contract Documents, such words or phrases shall be interpreted in accordance with that meaning, unless otherwise stated.

1.1.2. Capitalization. The words and terms defined in this Article are capitalized in these General Terms and Conditions of the Contract. Other capitalized words may refer to a specific document found in the Contract Documents.

1.1.3. Persons. Whenever the word person or persons is used, it includes, unless otherwise stated, entity or entities, respectively, including, but not limited to, corporations, partnerships, and joint venturers.

1.1.4. Singular and Plural. The following terms have the meanings indicated which are applicable to both the singular and the plural thereof.

1.2. Definitions.

1.2.1. Agreement. The Agreement is the written document between the **City** and the **Contractor** which is titled: Agreement between the City of Somerville and the Contractor, which is the executed portion of the Contract, and which forms a part of the Contract. The Agreement also includes all documents required to be attached thereto, including, but not limited to, the performance bond, the labor and materials or payment bonds, certificates of insurance, and all Modifications of the Agreement.

1.2.2. Change Order. A Change Order is a document which is signed by the **Contractor**, the **Design Professional**, and the **City**; which is directed to the **Contractor**; which authorizes the **Contractor** to make an addition to, a deletion from or a revision in the Work, or an adjustment in the Contract Sum or in the Contract Time; and which is issued on or after the date of the Agreement between the **Contractor** and the **City**.

1.2.3. City. The **City** refers to the City of Somerville, which is the owner of the Project and is the public awarding authority with whom the **Contractor** has entered into the Contract and for whom the Work is to be provided.

1.2.4. Claim. A Claim is a dispute, demand, or assertion by one of the parties arising out of or relating to the Contract for which such party is seeking relief.

1.2.5. Contract. The Contract consists of all the Contract Documents. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations, or agreements, either written or oral. The Contract may be amended or modified only by a Modification to the Contract signed by both parties.

1.2.6. Contract Documents. The Contract Documents consist of the Agreement; the notice of award of the Contract; the Notice to Proceed; the entire Project Manual; Change Orders; Construction Change Directives; the **Contractor's** Bid and all accompanying documents; and the **Design Professional's** written interpretations and clarifications issued on or after the issuance of the Notice to Proceed. Shop Drawing submittals and reports or drawings utilized by the **Design Professional** in preparing the Contract Documents are not Contract Documents.

1.2.7. Contractor. The **Contractor** is the person who is awarded the Contract for the Project herein pursuant to M.G.L. c. 149, §44A or M.G.L. c. 39, §39M; and is identified in the Agreement as such. The term "**Contractor**" is intended to include the **Contractor** as well as its authorized representative(s).

1.2.8. Contract Sum. The Contract Sum is the total amount stated in the Agreement payable by the **City** to the **Contractor** for the completion of the Work in accordance with the Contract Documents.

1.2.9. Contract Time. Unless otherwise provided, the Contract Time is the number of days allotted in the Contract Documents or the dates stated in the Agreement, including authorized adjustments, for Substantial Completion. We usually put a contract end date that is beyond the date of substantial completion.

1.2.10. Coordination Drawings. Coordination Drawings are those drawings, which are prepared by the **Contractor** or a Subcontractor that show the exact alignment, physical locations, and configuration of the mechanical, electrical, and fire protection installations.

1.2.11. Day. The term "day" shall mean calendar day unless otherwise stated.

1.2.12. Design Professional. The **Design Professional** is the person lawfully licensed to practice architecture, engineering, or landscape architecture and has been selected by the **City** to administer the Contract. The term "**Design Professional**," while referred to in the singular, means the **Design Professional** and/or the **Design Professional's** representative. For the purposes of this project, **Design Professional** shall mean the firm of Weston Sampson Engineers and appropriate consultants.

1.2.13. Field Order. A Field Order is a written order issued by the **Design Professional** which orders minor changes in the Work, but which does not involve a change in the Contract Sum or the Contract Time.

1.2.14. Final Completion. Final Completion is the point in time when the Design Professional finds that the Work has been fully completed in accordance with the Contract Documents. Final Completion shall be no later than thirty (30) days after Substantial Completion.

1.2.15. General Requirements. General Requirements refer to Sections of Division 1 of the Specifications.

1.2.16. Modification. A Modification is a written instrument that amends the Contract after execution of the Agreement.

1.2.17. Notice to Proceed. A Notice to Proceed is a written notice given by the **City**, or the **Design Professional**, to the **Contractor** fixing the date on which the Contract Time will begin to run and on which the **Contractor** shall start to perform its obligations under the Contract Documents.

1.2.18. Plans. The Plans are the drawings which are the graphic and pictorial portions of the Contract Documents, wherever located and whenever issued, showing the design, location, dimensions, scope, extent, and character of the Work to be furnished and performed by the **Contractor** and which have been prepared or approved by the **Design Professional**.

1.2.19. Product Data. Product Data are illustrations, standard schedules, performance charts, instructions, brochures, diagrams, and other information furnished by the **Contractor** to illustrate materials or equipment for some portion of the Work. Product Data are not considered part of the Contract Documents.

1.2.20. Project. The Project is the total Work to be provided under the Contract Documents and may be the whole or a part as indicated elsewhere in the Contract Documents and may include construction by the **City** or by separate contractors. The Project is the Work described in the invitation to bid (advertisement) and Specifications and illustrated by the Plans, including any Modifications.

1.2.21. Project Manual. The Project Manual is the entire set of bidding documents which includes, but is not limited to, the invitation to bid (advertisement), the instructions to bidders, all of the forms, the wage rates, all City and state requirements, the General Terms and Conditions of the Contract, any supplementary conditions thereto, the Plans, the Specifications, and all addenda.

1.2.22. Proposed Change Order. A Proposed Change Order is a Change Order that has been submitted by the **Contractor** to the **Design Professional**, is under review, and has not been approved by the **City**.

1.2.23. Samples. Samples are physical examples of materials, equipment, or workmanship that are representative of some portion of the Work and which establish the standards by which such portion of the Work will be judged. Samples are not considered part of the Contract Documents.

1.2.24. Shop Drawings. Shop Drawings are all drawings, diagrams, illustrations, schedules, and other information that are specifically prepared or assembled by or for the **Contractor** and submitted by the **Contractor** to illustrate some portion of the Work. Shop Drawings are not considered part of the Contract Documents.

1.2.25. Site. The Site is the location of the Project and of the Work.

1.2.26. Specifications. Specifications are those portions of the Contract Documents consisting of written technical descriptions of materials, equipment, construction systems, standards, and workmanship as applied to the Work and certain administrative details applicable thereto.

1.2.27. Subcontractor. A Subcontractor is a person who contracts directly with the **Contractor**, unless otherwise stated.

1.2.28. Submittals. Submittals are those Shop Drawings, Product Data, Samples, or any other required document that are provided to the Design Professional for review and approval.

1.2.29. Substantial Completion. Substantial Completion means that the Work has been completed and the Site or the facility is opened for full and intended public use, except for minor incomplete or unsatisfactory items that do not materially impair the usefulness of the Work. The **Design Professional** shall decide what constitutes "minor," "incomplete," "unsatisfactory," and "materially" and the **Design Professional's** decision shall be final.

1.2.30. Sub-subcontractor. A Sub-subcontractor is a person who has contracted directly with a Subcontractor.

1.2.31. Supplier. A Supplier is a manufacturer, fabricator, distributor, material person, or vendor having a direct contract with the Contractor or with any Subcontractor to furnish materials or equipment to be incorporated into the Work by the Contractor or any Subcontractor.

1.2.32. Work. Work refers to the services and the entire completed construction or the various separately identifiable parts thereof required by the Contract Documents, including all labor, materials, and equipment furnished, furnished and incorporated into the Project, or to be provided by the **Contractor** to fulfill the **Contractor's** obligations. The Work may constitute the whole or a part of the Project.

1.2.33. Construction Change Directive. A **Construction Change Directive** is a written directive to the **Contractor** ordering an addition to, a deletion from, or a revision to the Work issued on or after the date of the Agreement, signed by the **City**, and recommended by the **Design Professional**.

ARTICLE 2: ABOUT THE CONTRACT DOCUMENTS

2.1. Priority/Conflict.

2.1.1. Priority Among Contract Documents . In the event of conflict among the Contract Documents, the Contract Documents shall be construed according to the following priorities:

Highest Priority:	Modifications
Second Priority:	Agreement
Third Priority:	Addenda-later date to take precedence
Fourth Priority:	Supplementary General Conditions
Fifth Priority:	General Conditions
Sixth Priority:	Plans and Specifications

2.1.1.1. If there is a conflict between the Plans and Specifications, the figured dimensions shall govern over the scaled dimensions. Detailed Plans shall govern over the general Plans. Larger scale Plans shall take precedence over smaller scale Plans. Plans shall govern over Shop Drawings. Whenever notes, specifications, dimensions, details, or schedules in the Specifications or in the Plans, or between the Specifications and the Plans, or in all other instances not specifically noted above, the **Contractor** shall provide, unless otherwise directed by a Modification of the Contract, the better quality or greater quantity of Work at no increase in the Contract Sum or in the Contract Time.

2.1.1.2. Compliance with these priority conditions shall not justify any changes in the Work or any increase in the Contract Sum or Contract Time, unless any such compliance results in Work that may not be reasonably inferred from the Contract Documents as being required to produce the intended result as determined by the **Design Professional**.

2.1.2. Review of the Contract Documents and Field Conditions and Discovery of Conflict, Error, Ambiguity, or Discrepancy. Before starting the Work, and during the progress thereof, the **Contractor** shall carefully study and compare the Contract Documents with each other and with the information furnished by the **City** pursuant to Article 3 and shall at once report to the **Design Professional** any error, inconsistency, or omission the **Contractor** may discover. Any necessary change shall be ordered as provided in Article 11, subject to the requirements of any other provisions of the Contract Documents. The **Contractor** shall not proceed with the Work affected thereby (except in an emergency) until a Modification has been issued. If the **Contractor** proceeds with the Work having

discovered such errors, inconsistencies, or omissions contrary to the provisions contained herein, or if by reasonable study of the Contract Documents the **Contractor** could have discovered such, the **Contractor** shall bear all costs arising therefrom. The **Contractor** shall be liable to the **City** for failure to report any conflict, error, ambiguity, or discrepancy of which it knew or should have known.

2.1.3. Field Measurements. The **Contractor** shall take field measurements and verify field conditions and shall carefully compare such field measurements and conditions and other information known to the **Contractor** with the Contract Documents before commencing activities. Errors, inconsistencies, or omissions discovered shall be reported to the **Design Professional** at once.

2.1.4. Statutory Provisions. The **City** and the **Contractor** recognize that other rights duties and obligations with respect to public construction contracts are provided for by statute, notwithstanding the fact that they may not be provided for in the Contract Documents. In case of conflict between the statutory provisions and other provisions of the Contract Documents and the provisions of any applicable statute, the statutory provisions shall govern.

2.1.5. Voided or Unlawful Provisions. In the event any provision in the Contract is voided or deemed unlawful, such provision shall be deleted without affecting the remainder of the Contract.

2.2. Execution.

2.2.1. Execution of the Agreement by the **Contractor** is a representation that the **Contractor** has visited the Site, become familiar with local conditions under which the Work is to be performed, and correlated personal observations with requirements of the Contract Documents.

2.3. Intent.

2.3.1. Entire Agreement. The Contract Documents comprise the entire agreement between the **City** and the **Contractor** concerning the Work. The intent of the Contract Documents is to include all items necessary for the proper execution and completion of the Work by the **Contractor**. The Contract Documents are complementary; what is required by one shall be as binding as if required by all. Performance by the **Contractor** shall be required only to the extent consistent with the Contract Documents and reasonably inferable from them as being necessary to produce the intended results. All Work mentioned or indicated in the Contract Documents shall be performed by the **Contractor** as part of this Contract unless it is specifically indicated in the Contract Documents that such Work is to be done by others.

2.3.2. Statutory Provisions. Each and every provision of law, code, and regulation, required by law to be inserted in these Contract Documents shall be deemed to be inserted herein, and they shall be read and enforced as though it were included herein, and if through

mistake or otherwise, any such provision is not inserted, or if not correctly inserted, then upon the application of either party, the Contract Documents shall forthwith be physically amended to make such insertion.

2.3.3. Functionally Complete Project. It is the intent of the Contract Documents to describe a functionally complete Project. The intent of the Contract Documents is to include all items necessary for the proper execution and completion of the Work by the **Contractor**. Any Work, materials, or equipment that may be reasonably inferred from the Contract Documents or from prevailing custom or trade usage as being required to produce the intended result will be furnished and performed by the **Contractor** whether or not specifically called for in the Contract Documents.

2.3.4. Indications or Notations. All indications or notations which apply to one of a number of similar situations, materials, or processes shall be deemed to apply to all such situations, materials, or processes wherever they appear in the Work, except where a contrary result is clearly indicated by the Contract Documents.

2.3.5. Standards or Quality of Materials or Workmanship. Where no explicit quality or standards for materials or workmanship are established for Work, such Work is to be of good quality for the intended use and consistent with the quality of the surrounding Work and of the construction of the Project generally.

2.3.6. Manufactured Products. All manufactured articles, materials, and equipment shall be applied, installed, connected, erected, used, cleaned, and conditioned in accordance with the manufacturer's written or printed directions and instructions unless otherwise indicated in the Contract Documents.

2.3.7. Mechanical, Electrical, and Fire Protection Plans. The mechanical, electrical, and fire protection Plans are diagrammatic only and are not intended to show the alignment, physical locations, or configurations of such Work. Such Work shall be installed without additional cost to the **City** to clear all obstructions, permit proper clearances for the Work of other trades, and present an orderly appearance where exposed. Prior to beginning such Work, the **Contractor** shall prepare Coordination Drawings and demonstrate to the **Design Professional's** satisfaction that the installations will comply with the preceding sentence. The **Contractor** shall be solely liable and responsible for any costs and/or delays resulting from the **Contractor's** failure to prepare such Coordination Drawings.

2.3.8. Locations of Fixtures and Outlets. Exact locations of fixtures and outlets shall be obtained from the **Design Professional** as provided in Article 5 before the Work is roughed in. Work installed without such information from the **Design Professional** shall be relocated at the **Contractor's** expense.

2.3.9. Tests. When test boring or soil test information are included with the Contract Documents or otherwise made available to the **Contractor** and such test boring or soil test information was obtained by the **City** for use by the **Design Professional** in the design of the Project or Work, the **City** does not hold out such information to the **Contractor**

as an accurate or approximate indication of subsurface conditions, and no claim for extra cost of extension of time resulting from a reliance by the **Contractor** on such information shall be allowed except as otherwise provided herein. Any such reports are not part of the Contract Documents.

2.3.10. Joining Work. Where the Work is to fit with existing conditions or work to be performed by others, the **Contractor** shall fully and completely join the Work with such conditions or work, unless otherwise specified.

2.4. Organization.

2.4.1. Except as provided in M.G.L. c. 149, §44F, the organization of the Specifications into divisions, sections, and articles, and the arrangement of Plans shall not control the **Contractor** in dividing the Work among Subcontractors or in establishing the extent of Work to be performed by any trade.

2.5. References.

2.5.1. Where codes, manuals, specifications, standards, requirements and publications of public and private bodies are referred to in the Contract Documents whether specifically or by implication, references shall be understood to be to the latest revision prior to the date of receiving bids, except where otherwise indicated. Where statutes are referred to in the Contract Documents whether specifically or by implication, references shall be understood to be to the latest revision.

2.5.2. References herein to particular paragraphs or Articles are solely to facilitate finding additional information with regard to the specific matters and are not to be construed in any way as limiting the possible paragraphs and Articles in which such matters may be found elsewhere in this document.

2.6. Reuse of Design Professional's Written Instruments.

2.6.1. Neither the **Contractor** nor any Subcontractor or Supplier shall have or acquire any title to or ownership rights in any of the Plans, Specifications, or other documents prepared by the **Design Professional** and shall not reuse any of such Plans, Specifications, or other documents without prior written consent of the **City** and the **Design Professional**.

2.7. Written Material of the Contractor.

2.7.1. All written material prepared or collected by the **Contractor** in the course of completing the Work shall be the exclusive property of the **City** and shall not be used by the **Contractor** for any purpose other than the purpose of this Contract.

2.8. Modifying Words.

2.8.1. In the interest of simplicity, modifying words such as “all” and “any” may be omitted, but the fact that such words may be absent from one sentence and appear in another is not intended to affect the interpretation of either statement.

2.9. Use of Certain Words and Terms.

2.9.1. Whenever in the Contract Documents the terms “as ordered,” “as directed,” “as required,” “as allowed,” “as approved,” or terms of like effect or import are used, or the adjectives “reasonable,” “suitable,” “acceptable,” “proper,” “satisfactory,” or adjectives of like effect or import are used to describe a requirement, direction, review, or judgment of the **City** or of the **Design Professional** as to the Work, it is intended that such requirement, direction, review, or judgment will be solely to evaluate, in general, the completed Work for compliance with the requirements of and information in the Contract Documents and conformance with the design concept of the completed Project as a functioning whole as shown or indicated in the Contract Documents (unless there is a specific statement indicating otherwise).

2.9.2. The use of any such term or adjective shall not be effective to change the duties and responsibilities of the **City** or the **Design Professional** from those assigned in the Contract Documents or to assign any duty or authority to supervise or direct the furnishing or performance of the Work or any duty or authority to undertake responsibility contrary to the provisions of the Contract Documents.

2.9.3. When the words “Contractor,” “Subcontractor,” “Sub-subcontractor,” and “Supplier” are used, they are intended to include their employees and agents, unless otherwise specified.

2.10. Modification of the Contract Documents.

2.10.1. Major Modifications . Major Modifications may affect the Contract Sum or the Contract Time. The Contract Documents may be amended to provide for additions, deletions, and revisions in the Work or to modify the terms and conditions thereof in one or more of the following ways, all of which must contain a written endorsement by the **City**:

- 2.10.1.1.** a formal written amendment;
- 2.10.1.2.** a Change Order;
- 2.10.1.3.** a **Construction Change** Directive; or
- 2.10.1.4.** the **Design Professional's** written interpretation, clarification, or decision.

2.10.2. Minor Modifications. Minor modifications do not affect the Contract Sum or the Contract Time. The requirements of the Contract Documents may be supplemented and minor variations and deviations of the Work may be authorized in one or more of the following ways:

2.10.2.1. a Field Order; or

2.10.2.2. the **Design Professional's** approval of a Shop Drawing or Sample.

ARTICLE 3: THE CITY

3.1. Signatory.

3.1.1. All documents which require a signature or an endorsement by the **City** must be signed by the Mayor in order to be deemed ratified by the **City**.

3.2. Requirements to Provide Documents.

3.2.1. To the extent they are available, the **City** shall furnish surveys describing physical characteristics, legal limitations, and utility locations for the site of the Project, and a legal description of the Site.

3.2.2. The **City** shall obtain and pay for necessary approvals, easements, assessments, and charges that are customarily secured prior to the execution of the Contract.

3.2.3. The **City** shall furnish information or services required of the **City** hereunder with reasonable promptness after receipt from the **Contractor** of a written request for such information or services.

3.2.4. The **City** shall provide the **Contractor**, at no charge, such copies of the Project Manual as are reasonably necessary for the execution of the Work.

3.3. Clerk of the Works.

3.3.1. The **City** may engage a Clerk of the Works for this Project, in which case the **City** shall, upon request of the **Contractor**, provide the **Contractor** with a written statement of the duties, responsibilities, and limitations of authority of such Clerk of the Works. Except as expressly set forth in such written statement, the Clerk of the Works shall have no authority to approve Work, to approve Change Orders, or to exercise any of the power and authority of the **City** or the **Design Professional**. The Clerk of the Works shall observe the **Contractor's** operations and construction activities for compliance with the Plans and Specifications. The Clerk of the Works shall have access to all areas of the Project at all times. The **Contractor** shall fully cooperate with the Clerk of the Works in the performance of the Clerk's duties.

3.4. City's Right to Perform Construction and to Award Separate Contracts.

3.4.1. The **City** reserves the right to perform construction or operations at the Site with its own forces or others. If the **Contractor** claims that a delay or additional cost is involved because of such action by the **City**, the **Contractor** shall make such Claim as provided elsewhere in the Contract Documents.

3.4.2. When the separate contracts are awarded for different portions of the Project or other construction or operations on the site, the term "**Contractor**" in the Contract Documents in each case shall mean the **Contractor** who executes each separate City-Contractor Agreement.

3.4.3. The **City** shall provide for coordination of the activities of the **City's** own forces and of each separate contractor with the Work of the **Contractor**, who shall cooperate with them. The **Contractor** shall afford each other person access to the Site and shall properly coordinate its Work with that of the persons performing other work. The **Contractor** shall participate with other separate contractors and the **City** in reviewing their construction schedules when directed to do so. The **Contractor** shall make any revisions to the construction schedules deemed necessary after a joint review and mutual agreement. The construction schedules shall then constitute the schedules to be used by the **Contractor**, separate contractors, and the **City** until subsequently revised.

3.5. Limitations on the City's Responsibilities.

3.5.1. The **City** shall not supervise, direct, or have control or authority over, nor be responsible for the **Contractor's** means, methods, techniques, sequences, or procedures of construction or the safety precautions and programs incident thereto, or for any failure of the **Contractor** to comply with laws, codes and regulations applicable to the furnishing or performance of the Work. The **City** will not be responsible for the **Contractor's** failure to perform or furnish the Work in accordance with the Contract Documents. The **City** is not responsible for the acts or omissions of the **Contractor**, any Subcontractor, Supplier, or anyone for whose acts the **Contractor**, any Subcontractor or Suppliers may be liable.

3.5.2. The **City's** authority to review any of the **Contractor's** progress schedules, or its decision to raise or not to raise any objections about such schedules shall not impose on the **City** any responsibility for the timing, planning, scheduling, or execution of the Work, nor in any way give rise to any duty or responsibility on the part of the **City** to exercise this authority for the benefit of the **Contractor**, any Subcontractor or Supplier or any other party.

3.5.3. The **City's** decision to raise or not to raise objections with regard to any aspects of the **Contractor's** insurance shall in no way give rise to any duty or responsibility on the part of the **City** to or for the benefit of the **Contractor**, any Subcontractor, any Supplier, or any other party.

3.6. Reservation of Rights .

3.6.1. The **City** reserves the right to correct at any time any error in any progress payment that may have been made.

3.6.2. Should defective Work be discovered subsequent to final payment, the **City** reserves the right to make a claim and recover all costs and professional fees associated therewith, including the cost of removing and/or replacing the defective Work.

3.7. **Waivers .**

3.7.1. All waivers by the **City** are valid only to the extent that they are signed by the **City**. Any such waivers pertain only to the specific matter contained in the waiver and not to any similar, subsequent matters.

ARTICLE 4: THE DESIGN PROFESSIONAL

4.1. **City's Representative.**

4.1.1. The **Design Professional** is the **City's** representative (1) during construction, (2) until final payment is due, and (3) with the **City's** concurrence, from time to time during the correction period described in Article 10. The **Design Professional** will advise and consult with the **City**. The **Design Professional** will have authority to act on behalf of the **City** only to the extent provided in the Contract Documents, unless otherwise modified by a written instrument in accordance with other provisions of the Contract.

4.1.2. The duties, responsibilities, and the limitations of authority of the **Design Professional** as the **City's** representative during construction are set forth in the Contract Documents and shall not be extended without the written consent of the **City** and the **Design Professional**.

4.2. **Administration of the Contract .**

4.2.1. The **Design Professional** will provide administration of the Contract as described in the Contract Documents, unless the **City** has engaged a construction manager.

4.3. **Visits to the Site.**

4.3.1. The **Design Professional** will visit the site at intervals appropriate to the stage of construction to become generally familiar with the progress and quality of the completed Work and to determine in general if the Work is being performed in a manner indicating that the Work, when completed, will be in accordance with the Contract Documents. However, the **Design Professional** will not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. On the basis of on-site observations as an architect, engineer, or landscape architect, the **Design Professional** will keep the **City** informed of progress of the Work in writing and will endeavor to guard the **City** against defects and deficiencies in the Work.

4.4. Communications Facilitating Contract Administration.

4.4.1. Except as otherwise provided in the Contract Documents or when direct communications have been specially authorized, the **City** and the **Contractor** shall endeavor to communicate through the **Design Professional**. Communications by and with the **Design Professional's** consultants shall be through the **Design Professional**. Communications by and with Subcontractors and Suppliers shall be through the **Contractor**. Communications by and with **City** employees and separate contractors shall be through the **City**.

4.4.2. When it deems it necessary or expedient, the **City** may communicate directly with the **Contractor**, any Subcontractors, Suppliers, or consultants.

4.5. Certification of Applications for Payment.

4.5.1. Based on the **Design Professional's** observations and evaluations of the **Contractor's** applications for payment, the **Design Professional** will review and certify the amounts due the **Contractor** and will issue certificates for payment in such amounts.

4.6. Rejection of Work.

4.6.1. The **Design Professional** will have authority to reject or disapprove Work (1) that does not conform to the Contract Documents; (2) that the **Design Professional** believes to be defective; and (3) that the **Design Professional** believes will not produce a completed Project conforming to the Contract Documents or that will prejudice the integrity of the design concept of the completed Project as a functioning whole as indicated by the Contract Documents. Whenever the **Design Professional** considers it necessary or advisable for implementation of the intent of the Contract Documents, the **Design Professional** will have authority to require additional inspection or testing of the Work in accordance with Article 9, whether or not such Work is fabricated, installed, or completed. However, neither this authority of the **Design Professional** nor a decision made in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the **Design Professional** to the **Contractor**, Subcontractors, Suppliers, or other persons performing portions of the Work.

4.7. Review of Submittals.

4.7.1. The **Design Professional** will review or take other appropriate action upon the **Contractor's** submittals such as Shop Drawings, Product Data, and Samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents and only to the extent that the **Design Professional** believes desirable to protect the **City's** interest. The **Design Professional's** action will be taken with reasonable promptness, while allowing sufficient time in the **Design Professional's** professional judgment to permit adequate review, taking into account the time periods set forth in the latest schedule prepared by the **Contractor** and approved by the **Design Professional**. Review of such submittals is not conducted for the purpose of determining the accuracy and completeness of other details such as dimensions and quantities, or for substantiating instructions for installation or performance of equipment or systems, all of which remain the responsibility of

the **Contractor** as required by the Contract Documents. The **Design Professional's** review of the **Contractor's** submittals shall not relieve the **Contractor** of the obligations under Article 5. The **Design Professional's** review shall not constitute approval of safety precautions or of any construction means, methods, techniques, sequences, or procedures. The **Design Professional's** approval of a specific item shall not indicate approval of an assembly of which the item is a component. After the rejection of the second resubmittal of any one Submittal, the **Contractor** shall bear the cost of the review of each subsequent resubmittal.

4.8. Preparation of Change Orders and Construction Change Directives.

4.8.1. The **Design Professional** will prepare Change Orders and **Construction Change Directives** and may authorize minor Modifications in the Work as provided in Article 11.

4.9. Inspections.

4.9.1. The **Design Professional** will conduct inspections to determine the date or dates of Substantial Completion and the date of final completion; will receive and forward to the **City** for the **City's** review and records written warranties and related documents required by the Contract and assembled by the **Contractor**; and will issue a final certificate for payment upon the **Contractor's** compliance with all of the requirements of the Contract Documents.

4.10. Interpretations, Clarifications, and Decisions.

4.10.1. The **Design Professional** will interpret and decide matters concerning performance under and requirements of the Contract Documents on written request of either the **City** or the **Contractor**. The **Design Professional's** response to such requests will be made with reasonable promptness and within the time set forth in the Agreement between the **City** and the **Design Professional**. Any such written interpretations, clarifications, and decisions shall be binding on the **Contractor**.

4.10.2. Interpretations, clarifications, and decisions of the **Design Professional** will be consistent with the intent of and reasonably inferable from the Contract Documents and will be in writing or in the form of drawings. The **Design Professional** will not be liable to the **Contractor**, any Subcontractor, or Supplier for results of interpretations, clarifications, or decisions so rendered in good faith.

4.10.3. The **Design Professional** may, as the **Design Professional** judges desirable, issue additional drawings or instructions indicating in greater detail the construction or design of the various parts of the Work; such drawings or instructions may be effected by a Field Order or other notice to the **Contractor**, and provided such drawings or instructions are reasonably consistent with the previously existing Contract Documents, the Work shall be executed in accordance with such additional drawings or instructions without any additional cost or an extension of the Contract Time.

4.10.4. The **Design Professional's** decisions on matters relating to aesthetic effect must be consistent with the **City's** and will be final.

4.11. Limitation on the Design Professional's Responsibilities .

4.11.1. Neither the **Design Professional's** authority to act under the provisions of the Contract Documents nor any decision made by the **Design Professional** in good faith to exercise or not to exercise such authority shall give rise to any duty or responsibility of the **Design Professional** to the **Contractor**, any Subcontractor, any Supplier, any surety for any of them or any other person.

4.11.2. The **Design Professional** will not have control over or charge of and will not be responsible for construction means, methods, techniques, sequences, or procedures, or for safety precautions and programs in connection with the Work, since these are solely the **Contractor's** responsibility as provided in Article 5. The **Design Professional** will not be responsible for the **Contractor's** failure to carry out the Work in accordance with the Contract Documents. The **Design Professional** will not have control over or charge of and will not be responsible for acts or omissions of the **Contractor**, Subcontractors, Suppliers, or of any other persons performing portions of the Work.

ARTICLE 5: THE CONTRACTOR

5.1. Relationship with the City.

5.1.1. The **Contractor** is an independent contractor and not an employee of the **City**. The **Contractor** is engaged by virtue of the Contract to perform only those services contained therein. The **Contractor** is not authorized to contract on behalf of the **City** or to incur any liability on the part of the **City**.

5.2. Code of Conduct.

5.2.1. M.G.L. c. 268A establishes standards of conduct for officials and employees of the **City**. The **Contractor** shall familiarize itself with the statute and act accordingly.

5.3. Quality Assurance.

5.3.1. The **Contractor** shall be responsible for ensuring that it, all Subcontractors, Suppliers, and all persons employed to do the Work under the Contract Documents perform in a professional manner, provide a high quality of service and Work, and perform in accordance with the Contract Documents.

5.4. Supervision.

5.4.1. **Competence and Efficiency.** The **Contractor** shall supervise, inspect, and direct the Work competently and efficiently, devoting such attention thereto and applying such skills, attention and expertise as may be necessary to perform the Work in accordance with the Contract Documents.

5.4.2. Construction Means, Methods, Techniques, Etc. The **Contractor** shall be solely responsible for and have control over construction means, methods, techniques, sequences, and procedures and for coordinating all portions of the Work under the Contract. Where the Contract Documents refer to particular construction means, methods, techniques, sequences, or procedures or indicate or imply that such are to be used in the Work, such mention is intended only to indicate that the operations of the **Contractor** shall be such as to produce at least the quality of Work implied by the operations described. The actual determination of whether or not the described operations may be safely and suitably employed on the Work shall be the responsibility of the **Contractor**, who shall notify the **Design Professional** in writing, prior to implementation, of the actual means, methods, techniques, sequences, or procedures which will be employed on the Work, if these differ from those mentioned in the Contract Documents. All loss, damage, liability or cost of correcting defective work arising from the employment of any construction means, methods, techniques, sequences, or procedures shall be borne by the **Contractor**, notwithstanding that such construction means, methods, techniques, sequences, or procedures are referred to, indicated or implied by the Contract Documents, unless the **Contractor** has given timely notice to the **City** and the **Design Professional** in writing that such means, methods, techniques, sequences, or procedures are not safe or suitable, and the **City** has then instructed the **Contractor** in writing to proceed at the **City's** risk.

5.4.3. Variance between the Contract Documents and Statutes, Ordinances, Codes, Rules, and Regulations. The **Contractor** shall promptly notify the **Design Professional** and the **City** in writing of any variances between the Contract Documents and statutes, ordinances, codes, rules, and regulations. If the **Contractor**, without written notice to the **Design Professional** and the **City**, performs Work knowing that it is contrary to statutes, ordinances, codes, rules, and regulations, the **Contractor** shall assume full responsibility for such Work and shall bear the costs associated therewith, i.e., replacement, repairs, removal, and fines.

5.4.4. Acts and Omissions. The **Contractor** shall be responsible to the **City** for the acts and omissions of all persons performing or supplying the Work.

5.4.5. Inspections. The **Contractor** shall be responsible for inspection of portions of Work already performed under this Contract to determine whether such portions are in proper condition to receive subsequent Work.

5.5. Personnel.

5.5.1. Suitability. The **Contractor** shall provide competent, properly licensed and/or certified, suitably qualified, and reliable personnel to perform the Work required by the Contract Documents. The **Contractor** shall enforce strict discipline and maintain good order at the site at all times. The **Contractor** shall not employ any Subcontractor, Supplier, or other person, whether initially or as a substitute, against whom the **City** may have reasonable objection. Acceptance of any Subcontractor or other person by the **City** shall not constitute a waiver of any right of the **City** to reject defective Work.

5.5.2. Sexual Harassment. Sexual harassment is an unlawful practice under M.G.L. c. 151B. The **Contractor**, Subcontractors, and all other persons responsible for any portion of the Work shall refrain from engaging in sexual harassment. The **Contractor** shall be responsible for any acts of sexual harassment committed by any persons responsible for any portion of the Work. The **Contractor** shall take appropriate action against any such individuals.

5.5.3. Weapons and Illegal Drugs. No weapons or illegal drugs are permitted on the Site. It is the responsibility of the **Contractor** to ensure that no weapons or illegal drugs are brought to the Site.

5.5.4. Maximum Work Day and Work Week. (*Reference: M.G.L. c. 149, §§30 and 34;*). No laborer, worker, mechanic, foreperson or inspector working within this Commonwealth in the employ of the **Contractor**, Subcontractor or other person doing or contracting to do the whole or part of the work contemplated by the Contract, shall be required or permitted to work more than eight (8) hours in any one day or more than forty-eight (48) hours in any one week, or more than six (6) days in any one week, except in cases of emergency.

5.5.5. Lodging. (*Reference: M.G.L. c. 149, §25;*). Every employee under this Contract shall lodge, board and trade where and with whom he or she elects, and neither the **Contractor** nor its agents or employees shall, either directly or indirectly, require as a condition of the employment of any person that the employee shall lodge, board or trade at a particular place or with a particular person.

5.5.6. Wage Rates. (*Reference: M.G.L. c. 149, §27.*). Mechanics and apprentices, teamsters, chauffeurs and laborers performing Work shall be paid no less than the minimum rate of wages included in the bid documents and the Project Manual and which are made part of the Contract. They shall continue to be the minimum rate of wages for said employees during the life of the Contract. The **Contractor** shall keep a legible copy of the wage rates posted in a conspicuous place at the site during the life of the Contract. These rates of wages shall include payments by employers to health and welfare plans, pension plans and supplementary unemployment benefit plans as provided in M.G.L. c. 149, §26;, and such payments shall be considered as payments to persons under M.G.L. c. 149, §27 performing work as therein provided. If the **Contractor** does not make payments to a health and welfare plan, a pension plan and a supplementary unemployment benefit plan, where such payments are included in the rates of wages, the **Contractor** shall pay the amount of said payments directly to each employee engaged in the Work. If the **Contractor** pays less than the rate of wages, including payments to health and welfare funds and pension funds, or the equivalent payments in wages to any person performing Work within the classifications as determined by the Commissioner of Labor and Industries, and if the **Contractor** takes or receives for its own use or the use of any other person, as a rebate, refund or gratuity, or in any other guise, any part or portion of the wages, including payments to health and welfare funds and pension funds, or the equivalent payment in wages, paid to such person for Work done or service rendered on the Project, the **Contractor** will be subject to the penalties set forth in M.G.L. c. 149, §27. Notwithstanding the foregoing and the requirements of 5.5.7.1 and 5.5.7.2 below, if the Contract is federally funded, federal labor standards apply, including Davis Bacon minimum wage rates and payroll reporting requirements. See the "Federal Requirements" section at the end of these contract documents.

5.5.7. Payroll Records of Employees. (*Reference:* M.G.L. c. 149, §27B;). The **Contractor** and all Subcontractors who are subject to M.G.L. c. 149, §§27 and 27A shall keep a true and accurate record of all mechanics and apprentices, teamsters, chauffeurs, and laborers performing Work showing the name, address and occupational classification of each such employee, the hours worked by and the wages paid to all such employees. The **Contractor** and the Subcontractors shall submit a copy of said record to the **City** on a weekly basis.

5.5.7.1. (*Reference:* M.G.L. c. 149, §27B;). The **Contractor** and all Subcontractors who are subject to M.G.L. c. 149, §§27 and 27A shall preserve their payroll records for a period of three (3) years from the date of completion of the Contract.

5.5.7.2. (*Reference:* M.G.L. c. 149, §27B). The **Contractor** and all Subcontractors who are subject to M.G.L. c. 149, §§27 and 27A shall furnish to the Commissioner of Labor and Industries and the **City** within fifteen (15) days after completion of their portion of the Work a statement executed by the **Contractor** or Subcontractor or by any authorized officer or employee of the **Contractor** or Subcontractor who supervises the payment of wages in the form found in M.G.L. c.149, §27B.

5.6. Superintendence.

5.6.1. Employment of a Superintendent . The **Contractor** shall employ a competent, properly licensed superintendent, reasonably acceptable to the **City**, and necessary assistants who shall be in attendance at the Site full time during the progress of the Work until the date of Substantial Completion and for such additional time thereafter as the **Design Professional** or the **City** may determine to be necessary for the expeditious completion of the Work, including final completion. If continually in the employ of the Contractor, the same Superintendent shall be assigned to this project.

5.6.2. Removal/Replacement of a Superintendent . The **Contractor** shall remove the superintendent if requested to do so in writing by the **City** and shall promptly replace such superintendent with a competent person reasonably acceptable to the **City**. The superintendent shall represent the **Contractor**, and communications given to the superintendent shall be as binding as if given to the **Contractor**. The **Contractor** shall not replace the superintendent without written notice to the **City** and the **Design Professional**.

5.6.3. Registered Professional Engineer or Registered Land Surveyor . The **Contractor** shall retain a competent Registered Professional Engineer or Registered Land Surveyor, acceptable to the **Engineer**, who shall establish the exterior lines and required elevations of all buildings and structures to be erected on the site and shall establish sufficient lines and grades for the construction of associated Work such as, but not limited to, roads, utilities, and site grading. The Engineer or Land Surveyor shall certify as to the actual location of the constructed facilities in relation to property lines, building lines, easements, and other restrictive boundaries.

5.6.4. Building Grades, Lines, Etc.; The **Contractor** shall establish the building grades; lines; levels; and column, wall and partition lines required by the various Subcontractors in laying out their Work.

5.6.5. Coordination and Supervision . The **Contractor** shall coordinate and supervise the Work performed by Subcontractors to the end that the Work is carried out without conflict between trades and so that no trade, at any time, causes delay to the general progress of the Work. The **Contractor** and all Subcontractors shall at all times afford each trade, any separate contractor, or the **City**, every reasonable opportunity for the installation of Work and the storage of materials.

5.6.6. Job Meetings . There shall be job meetings held on a weekly basis, or more often if required by the **City**. The **Contractor** shall arrange for and attend weekly job meetings with the **Design Professional** and such other persons as the **Design Professional** may from time to time wish to have present. The **Contractor** shall be represented by a principal, project manager, general superintendent or other authorized main office representative, as well as by the **Contractor's** own superintendent. An authorized representative of any Subcontractor or Sub-subcontractor shall attend such meetings if the representative's presence is requested by the **Design Professional**. Such representatives shall be empowered to make binding commitments on all matters to be discussed at such meetings, including costs, payments, Change Orders, time schedules and workforce power. Any notices required under the Contract may be served on such representatives.

5.7. Materials, Labor, Equipment, Etc.

5.7.1. Provision of. Unless otherwise provided in the Contract Documents, the **Contractor** shall furnish and assume full responsibility for all materials, equipment, labor, transportation, construction equipment and machinery, tools, appliances, fuel, power, light, heat, telephone, water, sanitary facilities, temporary facilities, and all other facilities and incidentals necessary for the furnishing, performance, testing, start-up, and completion of the Work.

5.7.2. Quality and Use of. All materials and equipment shall be of good quality and new, except as otherwise provided in the Contract Documents. If required by the **Design Professional**, the **Contractor** shall furnish satisfactory evidence (including reports of required tests) as to the kind and quality of materials and equipment. All materials and equipment shall be applied, installed, connected, erected, used, cleaned, and conditioned in accordance with instructions of the applicable Supplier, except as otherwise provided in the Contract Documents.

5.7.3. Discrepancies or Defects. If the **Contractor** is unable to perform its Work because of discrepancies or defects in the work of the **City's** own forces or of a separate contractor, the **Contractor** shall immediately notify the **Design Professional** and the **City** in writing of the conditions that render unable to so perform. Failure to notify the **Design Professional** constitutes an acknowledgment and acceptance of the other work as being fit and proper for integration with the **Contractor's** Work except for latent or non-apparent defects and deficiencies in the other work.

5.8. Contractor's Management and Financial Statement Requirements. (Reference: M.G.L. c. 30, §39R)

5.8.1. The words defined herein shall have the meaning stated below whenever they appear in this Paragraph:

5.8.1.1. "Contractor" means any person, corporation, partnership, joint venture, sole proprietorship, or other entity awarded a contract pursuant to M.G.L. c.149, §44A-H or M.G.L. c. 30, §39M, inclusive.

5.8.1.2. "Contract" means any contract awarded or executed pursuant to M.G.L. c. 149, §44A-H or M.G.L. c. 30, §39M, which is for an amount or estimate amount that exceed the dollar amount set forth in M.G.L. c. 30, §39R.

5.8.1.3. "Records" means books of original entry, accounts, checks, bank statements and all other banking documents, correspondence, memoranda, invoices, computer printouts, tapes, discs, papers and other documents or transcribed information of any type, whether expressed in ordinary or machine language.

5.8.1.4. "Independent Certified Public Accountant" means a person duly registered in good standing and entitled to practice as a certified public accountant under the laws of the place of his/her residence or principal office and who is in fact independent. In determining whether an accountant is independent with respect to a particular person, appropriate consideration should be given to all relationships between the accountant and that person or any affiliate thereof. Determination of an accountant's independence shall not be confined to the relationships existing in connection with the filing of reports with the City.

5.8.1.5. "Audit," when used in regard to financial statement, means an examination of records by an independent certified public accountant in accordance with generally accepted accounting principles and auditing standards for the purpose of expressing a certified opinion thereon, or, in the alternative, a qualified opinion or a declination to express an opinion for stated reasons.

5.8.1.6. "Accountant's Report," when used in regard to financial statements, means a document in which an independent certified accountant indicates the scope of the audit which s/he has made and sets forth his/her opinion regarding the financial statements taken as a whole with listing of noted exceptions and qualifications, or an assertion to the effect that an overall opinion cannot be expressed. When an overall opinion cannot be expressed the reason therefore shall be stated. An accountant's report shall include as part thereof a signed statement by the responsible corporate officer attesting that management has fully disclosed all material facts to the independent certified public accountant, and that the audited financial statement is a true and complete statement of the financial condition of the contractor.

5.8.1.7. — “Management,” when used herein, means the chief executive officers, partners, principals or other person or persons primarily responsible for the financial and operational policies and practices of the Contractor.

5.8.1.8. Accounting terms, unless otherwise defined herein shall have a meaning in accordance with generally accepted accounting principles and auditing standards.

5.8.2. The Contractor shall make, and keep for at least six (6) years after final payment, books, Records, and accounts that in reasonable detail accurately and fairly reflect the transactions and dispositions of the Contractor.

5.8.3. Until the expiration of six (6) years after final payment, the Office of the Inspector General, and the Deputy Commissioner of the Division of Capital Asset Management shall have the right to examine any books, documents, papers or Records of the Contractor or of its Subcontractors that directly pertain to, and involve transactions relating to, the Contractor or its Subcontractors.

5.8.4. The Contractor shall describe any change in the method of maintaining Records or recording transactions which materially affect any statements filed with the **City**, including in its description the date of the change and reasons therefore, and shall accompany said description with a letter from the Contractor’s Independent Certified Public Accountant approving or otherwise commenting on the changes.

5.8.5. The Contractor shall file a Statement of Management on internal accounting controls as set forth below prior to the execution of the Contract.

5.8.6. The Contractor shall file prior to the execution of the contract and shall continue to file annually, an Audited Financial Statement for the most recent completed fiscal year as set forth below.

5.8.7. The Contractor shall file with the **City** a Statement of Management as to whether the system of internal accounting controls of the Contractor and its subsidiaries reasonably assures that:

5.8.7.1. transactions are executed in accordance with Management’s general and specific authorization;

5.8.7.2. transactions are recorded as necessary to permit preparation of financial statements in conformity with generally accepted accounting principles, and to maintain accountability for assets;

5.8.7.3. access to assets is permitted only in accordance with Management’s general or specific authorization; and

5.8.7.4. the recorded accountability for assets is compared with the existing assets at reasonable intervals and appropriate action is taken with respect to any difference.

5.8.7.5. The Contractor shall also file with the **City** a statement prepared and signed by an Independent Certified Public Accountant stating that s/he has examined the Statement of Management on internal accounting controls, and expressing an opinion as to:

5.8.7.5.1. whether the representation of Management in response to this paragraph and paragraphs 5.8.2. through 5.8.6 above are consistent with the result of Management's evaluation of the system of internal accounting controls; and

5.8.7.5.2. whether such representations of Management are, in addition, reasonable with respect to transactions and assets in amounts which would be material when measured in relation to the applicant's financial statements.

5.8.8. The Contractor shall annually file with the Commissioner of the Division of Capital Asset Management during the term of the contract a financial statement prepared by an Independent Certified Public Accountant on the basis of an Audit by such accountant. The final statement filed shall include the date of final payment. All statements shall be accompanied by an accountant's report. Such statements shall be made available to the **City** upon request.

5.9. Taxes.

5.9.1 The **Contractor** shall pay all sales, consumer, use, and other similar taxes for the Work or portions thereof which are provided by the **Contractor** which are legally enacted when bids are received, whether or not yet effective or merely scheduled to go into effect. However, the **Contractor** shall not pay, and the **City** shall not reimburse or pay the **Contractor** for, any sales taxes for building supplies or materials for which an exemption is provided in M.G.L. c. 64H, §6(f). The **City's** tax exemption number to be used by the **Contractor** in this regard is E04-600-1414.

5.10. Permits, Licenses, and Fees.

5.10.1 Unless otherwise provided, the **Contractor** shall obtain and pay the fees for all permits, licenses, and inspections that are necessary for the proper execution and completion of the Work and which are customarily secured after execution of the Contract and which are legally required. All fees for permits, licenses, and inspections required by any **City** department shall be waived.

5.11. Notices Required By Statutes, Ordinances, Codes, Rules, Regulations, and Orders of the City.

5.11.1 The **Contractor** shall give notices required by statutes, ordinances, codes, rules, regulations, and orders of the **City** bearing on performance of the Work.

5.12. Additional Information from Design Professional.

5.12.1. The **Contractor** shall perform the Work in accordance with the Contract Documents and submittals approved pursuant to Article 4.

5.12.2. The **Contractor** shall give the **Design Professional** timely notice of any additional Plans, Specifications, or instructions required to define the Work in greater detail, or to permit the proper progress of the Work.

5.12.3. The **Contractor** shall not proceed with any Work not clearly and consistently defined in detail in the Contract Documents, but shall request additional drawings or instructions from the **Design Professional** as provided in the previous Paragraph. If the **Contractor** proceeds with such Work without obtaining further drawings, Specifications, or instructions, the **Contractor** shall correct Work incorrectly done at the **Contractor's** own expense.

5.13. "Or equal."

5.13.1. **Requirements for Substitutions.** (*Reference: M.G.L. c. 30, §39M(b).*) Where products or materials are prescribed by manufacturer name, trade name, or catalog reference, the words "or approved equal" shall be understood to follow. An item shall be considered equal to the item so named or described if, in the opinion of the **Design Professional**:

5.13.1.1. it is at least equal in quality, durability, appearance, strength, and design;

5.13.1.2. it performs at least equally the function imposed by the general design for the Work;

5.13.1.3. it conforms substantially, even with deviations, to the detailed requirements for the items as indicated by the Specifications.

5.13.2. **Net Savings.** No proposed substitution will be permitted unless the **Contractor** certifies that the proposed substitution will yield a net savings to the **City** and will not extend the Contract Time.

5.13.3. **Contractor's Expense.** Any structural or mechanical changes made necessary to accommodate substituted equipment under this paragraph (including but not limited to engineering fees) shall be at the expense of the **Contractor** or **Subcontractor** responsible for the Work item.

5.13.3.1. Any additional cost, or any loss or damage arising from the substitution of any material or any method for those originally specified shall be borne by the **Contractor**, notwithstanding approval or acceptance of such substitution by the **City** or

the **Design Professional**, unless such substitution was made at the written request or direction of the **City** or the **Design Professional**.

5.13.3.2. All data to be provided by the **Contractor** in support of any proposed "or equal" or substitute item will be at the **Contractor's** expense.

5.13.4. Meeting Requirements. The **Contractor** shall be responsible for determining that all materials furnished for the Work meet all requirements of the Contract Documents. The **Design Professional** may require the **Contractor** to produce reasonable evidence that a material meets such requirements, such as certified reports of past tests by qualified testing laboratories, reports of studies by qualified experts, or other evidence which, in the opinion of the **Design Professional**, would lead to a reasonable certainty that any material used, or proposed to be used, in the Work meets the requirements of the Contract Documents. All such data shall be furnished at the **Contractor's** expense. This provision shall not require the **Contractor** to pay for periodic testing of different batches of the same material, unless such testing is specifically required by the Contract Documents to be performed at the **Contractor's** expense.

5.13.5. Named Manufacturer's Product. In all cases in which a manufacturer's name, trade name, or other proprietary designation is used in connection with materials or articles to be furnished under this Contract, whether or not the phrase "or equal" is used after such name, the **Contractor** shall furnish the product of the name manufacturer(s) without substitution, unless a written request for a substitute has been submitted by the **Contractor** and approved in writing by the **Design Professional** as provided in the following paragraph.

5.13.6. Deviations. If the **Contractor** proposes to use a material which while suitable for the intended use, deviates in any way from the detailed requirements of the Contract Documents, the **Contractor** shall inform the **Design Professional** in writing of the nature of such deviations at the time the material is submitted for approval and shall request written approval of the deviation from the requirements of the Contract Documents.

5.13.7. Rejection of Deviations. In requesting approval of deviations or substitutions, the **Contractor** shall provide, upon request, evidence leading to a reasonable certainty that the proposed substitution or deviation will provide a quality of result at least equal to that otherwise attainable. If, in the opinion of the **Design Professional**, the evidence presented by the **Contractor** does not provide a sufficient basis for such reasonable certainty, the **Design Professional** may reject such substitution or deviation without further investigation.

5.13.8. Consistent Character and Quality of Design. The Contract Documents are intended to produce a building of consistent character and quality of design. All components of the building including visible items of mechanical and electrical equipment have been selected to have a coordinated design in relation to the overall appearance of the Project. The **Design Professional** shall judge the design and appearance of proposed substitutes on the basis of their suitability in relation to the overall design of the Project, as well as for their intrinsic merits. The **Design Professional** will not approve as equal to materials specified proposed substitutes that, in the **Design Professional's** opinion, would be out of character, obtrusive, or otherwise inconsistent with the character or quality of design of the Project. In order to permit coordinated

design of color and finishes the **Contractor** shall, if required by the **Design Professional**, furnish the substituted material in any color, finish, texture, or pattern which would have been available from the manufacturer originally specified, at no additional cost to the **City**.

5.13.9. Warranty. The warranties provided herein shall be in addition to and not in limitation of any other warranty required by the Contract Documents or otherwise prescribed by law.

5.13.10. Design Professional's Approval. The **Design Professional** will be the sole judge of acceptability. No "or equal" or substitute will be ordered, installed, or utilized without the **Design Professional's** prior written acceptance which will be evidenced by either a Change Order or an approved Shop Drawing. The **City** may require the **Contractor** to furnish at the **Contractor's** expense a special performance guarantee or other surety with respect to any "or equal" or substitute. The **Design Professional** will record the time required by the **Design Professional** and its consultants in evaluating substitutes proposed or submitted by the **Contractor** and in making changes in the Contract Documents (or in the provisions of any other direct contract with the **City** for work on the Project) occasioned thereby. Whether or not the **Design Professional** accepts a substitute item so proposed or submitted by the **Contractor**, the **Contractor** shall reimburse the **City** for the charges of the **Design Professional** and its consultants for evaluating each such proposed substitute item.

5.14. Substitute Construction Methods or Procedures.

5.14.1 If a specific means, method, technique, sequence, or procedure of construction is shown or indicated in and expressly required by the Contract Documents, the **Contractor** may furnish or utilize a substitute means, method, technique, sequence or procedure of construction acceptable to the **Design Professional**. The **Contractor** shall submit sufficient information to allow the **Design Professional**, in the **Design Professional's** sole discretion, to determine whether the substitute proposed is equivalent to that expressly called for by the Contract Documents.

5.15. Contractor's Progress Schedule.

5.15.1. Before Starting Construction. Within ten (10) days after the date of the Notice to Proceed, the **Contractor** shall submit to the **Design Professional** for review:

5.15.1.1. a preliminary progress schedule indicating the times (number of days or dates) for starting and completing the various stages of the Work;

5.15.1.2. a preliminary schedule of Shop Drawing and Sample submittals which will list each required submittal and the times for submitting, reviewing, and processing such submittal; and

5.15.1.3. a refined schedule of values for all of the Work which will include quantities and prices of items aggregating the Contract Sum and will subdivide the Work into component parts in sufficient detail to serve as the basis for progress payments

during construction. Such prices will include an appropriate amount of overhead and profit applicable to each item of Work.

5.15.2. Review of Progress Schedule. At least ten (10) days prior to the commencement of construction, the **Design Professional**, the **Contractor**, and any other appropriate persons will meet to review and discuss the acceptability to the **Design Professional** of the progress schedule. The **Contractor** will have an additional ten (10) days to make corrections and adjustments and to complete and resubmit the schedule. No progress payment shall be made to the **Contractor** until the schedule is submitted to and found acceptable by the **Design Professional** as provided below.

5.15.3. Acceptability of Progress Schedule. The progress schedule will be acceptable to the **Design Professional** if, according to the **Design Professional**, it provides an orderly progression of the Work to completion within any specified time frame, but such acceptance will neither impose on the **Design Professional** responsibility for the sequencing, scheduling, or progress of the Work nor interfere with or relieve the **Contractor** from the **Contractor's** full responsibility therefore. The **Contractor's** schedule of Submittals must be acceptable to the **Design Professional** in providing a workable arrangement for reviewing and processing the required Submittals. The **Contractor's** schedule of values must be acceptable to the **Design Professional** as to form and substance.

5.15.4. Sepia and Copies. After the **Design Professional** has approved the schedule, the **Contractor** shall submit to the **Design Professional** one (1) sepia and four (4) copies bearing the **Contractor's** stamp of approval as a representation to the **City** that the **Contractor** has determined or verified all data on that progress schedule and that the **Contractor**, the Subcontractors and Suppliers have reviewed and coordinated the sequences in that progress schedule with the requirements of the Work.

5.15.5. Adjustment of Schedule. The **Contractor** shall adhere to the established progress schedule which may be adjusted from time to time as follows: the **Contractor** shall submit to the **Design Professional** for acceptance proposed adjustments in the progress schedule that will not change the Contract Time. Such adjustments will conform generally to the progress schedule then in effect and will comply with any provisions of the requirements applicable thereto.

5.15.6. During Construction. The **Contractor** shall submit monthly progress schedules to the **Design Professional**. The schedules shall stay current with the **Contractor's** approach to the Work remaining.

5.15.7. Schedule of Submittals . The **Contractor** shall prepare and keep current, for the **Design Professional's** approval, a schedule of Submittals that is coordinated with the **Contractor's** construction schedule and allows the **Design Professional** reasonable time to review Submittals.

5.16. Project Coordination.

5.16.1. In General. The **Contractor** shall be responsible for the proper coordination of the Work of all of the trades.

5.16.2. Coordination with Subcontractors. The **Contractor** shall coordinate the work of each Subcontractor with the Work of every other Subcontractor whose Work affects the other.

5.16.3. Coordination with the City's Own Forces or Separate Contractors. The **Contractor** shall coordinate its operations with those of the **City's** own forces or separate contractors. The **Contractor** shall provide the **City's** own forces and separate contractors a reasonable opportunity for the handling, unloading and storage of their materials and equipment and execution of their work. The **Contractor** shall connect and coordinate its Work with theirs.

5.16.4. Coordination with Utility Companies. The **Contractor** shall coordinate its operations with all the appropriate utility companies to assure that the utilities required on the Project are available and functioning properly pursuant to the requirements of the Contract Documents.

5.17. Project Photographs.

5.17.1. In General. The **Contractor** shall take, at its own expense, interior and exterior photographs at the site, from different vantages as directed by the **Design Professional** or the **City**, before beginning any Work and thereafter, at a minimum, on the first work day of each month until final completion of the Work, including final Site photos. Photos shall be taken of any Work that will be buried or concealed while the Work is still exposed. The photographs shall be taken by a skilled commercial photographer. The number of photographs required shall be at the discretion of the **City** or the **Design Professional**. One aerial photo shall be required a) prior to commencement of the work and b) at the completion of the work. See Section 01320 – Construction Progress Documentation.

5.17.2. Prints and Digital Media. Within fourteen (14) days after the photographs have been taken, the **Contractor** shall cause prints to be made and delivered to the **City** and the **Design Professional**. All photographs shall be 8" x 10". Each print shall state the date of the photograph, the name of the Project, the description of the view and the name and address of the photographer. The **City** shall receive one glossy print of each photo as well as all prints in digital form on compact disc. The **Design Professional** shall receive one glossy print.

5.17.3. Failure to Comply. Should the **Contractor** fail to adhere to any requirement set forth in the previous two paragraphs, the **City** may have the photographs taken at the **Contractor's** expense or receive a set-off against the **Contractor's** next application for payment.

5.18. Record Documents and Samples at the Site.

5.18.1 The **Contractor** shall maintain in a safe place at the site one record copy of all Plans, Specifications, Modifications, Change Orders, **Construction Change Directives**, Field

Orders and written interpretations and clarifications in good order and annotated to show all changes made during construction. These record documents together with all approved Samples and a counterpart of all approved Shop Drawings will be available to the **Design Professional** for reference. Upon completion of the Work, these record documents, Samples and Shop Drawings will be delivered by the **Contractor** to the **Design Professional** for the **City**.

5.19. Submittals.

5.19.1. Purpose. The purpose of Submittals is to demonstrate for those portions of the Work for which Submittals are required the way the **Contractor** proposes to conform to the information given and the design concept expressed in the Contract Documents.

5.19.2. Submittal Procedure. Within ten (10) days from the Notice to Proceed, the **Contractor** shall submit to the **Design Professional** a completed Submittals schedule. The **Contractor** shall review, approve, and submit to the **Design Professional** Submittals required by the Contract Documents with reasonable promptness and in such sequence as to cause no delay in the Work or in the activities of the **City** or of separate contractors. Submittals made by the **Contractor** that are not required by the Contract Documents may be returned without action. The schedules shall be updated and resubmitted each month. All Submittals will be identified as the **Design Professional** may require and in the number specified in the General Requirements. The data shown on the Shop Drawings will be complete with respect to quantities, dimensions, specified performance and design criteria, materials, and similar data to show the **Design Professional** the materials and equipment that the **Contractor** proposes to provide and to enable the **Design Professional** to review the information for the limited purposes stated below.

5.19.3. Samples. The **Contractor** shall also submit Samples to the **Design Professional** for review and approval in accordance with said accepted schedule of Submittals. Each Sample will be identified clearly as to material, Supplier, pertinent data such as catalog numbers and the use for which it is intended and otherwise as the **Design Professional** may require to enable the **Design Professional** to review the Submittal for the limited purposed stated below. The numbers of each Sample to be submitted will be as specified in the Specifications. Unless otherwise specified in the Specifications, three (3) specimens of each Sample shall be submitted.

5.19.3.1. The Samples shall be of sufficient size to permit proper evaluation of material. Where variations in color or other characteristics are to be expected, samples showing the minimum range of variation shall be submitted. Materials exceeding the range of variation of the approved Samples will not be approved on the Work.

5.19.3.2. All costs associated with delivery of Samples will be paid by the **Contractor**.

5.19.4. Contractor's Verifications. Before submitting each Submittal, the **Contractor** shall have determined and verified:

5.19.4.1. all field measurements, quantities, dimensions specified performance criteria, installation requirements, materials, catalog numbers, and similar information with respect thereto;

5.19.4.2. all materials with respect to intended use, fabrication, shipping, handling, storage, assembly, and installation pertaining to the performance of the Work; and

5.19.4.3. all information relative to the **Contractor's** sole responsibilities in respect of means, methods, techniques, sequences, and procedures of construction and safety precautions and programs incident thereto.

5.19.5. Contractor's Representations. By approving and providing Submittals, the **Contractor** thereby represents that the **Contractor** has determined and verified all dimensions, quantities, field dimensions, relations to existing Work, coordination with Work to be installed later, coordination with information on previously accepted Submittals and verification of compliance with all the requirements of the Contract Documents. The accuracy of all such information is the responsibility of the **Contractor**. In reviewing Submittals, the **Design Professional** shall be entitled to rely upon the **Contractor's** representation that such information is correct and accurate.

5.19.6. Coordination. The **Contractor** shall also have reviewed and coordinated each Submittal with other Submittals and with the requirements of the Work and the Contract Documents.

5.19.7. Stamp or Specific Written Indication. Each Submittal will bear a stamp or specific written indication that the **Contractor** has satisfied the **Contractor's** obligations under the Contract Documents with respect to the **Contractor's** review and approval of that Submittal.

5.19.8. Written Notice of Variations. At the time of each Submittal, the **Contractor** shall give the **Design Professional** specific written notice of such variations, if any, that the Submittal may have from the requirements of the Contract Documents. Such notice is to be in a written communication separate from the Submittal. Moreover, the **Contractor** shall make a specific notation on each Submittal to the **Design Professional** for review and approval of each such variation.

5.19.9. Review and Approval by the Design Professional. The **Contractor** shall perform no portion of the Work requiring a Submittal until the respective Submittal has been approved by the **Design Professional**. Such Work shall be in accordance with approved Submittals.

5.19.9.1. The **Design Professional** will review and approve Submittals in accordance with the schedule of Submittals accepted by the **Design Professional** as required above. The **Design Professional's** review and approval will be only to determine if the items covered by the Submittals will, after installation or incorporation in the Work, conform to the information given in the Contract Documents and be compatible with the design concept of the completed Project as a functioning whole as indicated in the Contract Documents. The **Design Professional's** review and approval will not extend to means, method, technique, sequences, or

procedures of construction (except where a particular means, method, technique, sequences or procedures of construction is specifically and expressly called for by the Contract Documents) or to safety precautions or programs incident thereto. The review and approval of a separate item as such will not indicate approval of the assembly in which the item functions.

5.19.10.Deviations. The **Contractor** shall not be relieved of responsibility for deviations from requirements of the Contract Documents by the **Design Professional's** approval of Submittals unless the **Contractor** has specifically informed the **Design Professional** in writing of such deviation at the time of Submittal and the **Design Professional** has given written approval to the specific deviation. The **Contractor** shall not be relieved of responsibility for errors or omissions in Submittals by the **Design Professional's** approval thereof.

5.19.11. Revisions. The **Contractor** shall make corrections required by the **Design Professional** and shall return the required number of corrected copies of Submittals and submit as required new Submittals for review and approval. The **Contractor** shall direct specific attention, in writing or on resubmitted Submittals, to revisions other than those requested by the **Design Professional** on previous Submittals. Unless such written notice has been given, the **Design Professional's** approval of a resubmitted Submittal shall not constitute approval of any changes not requested on the prior Submittal.

5.19.12. Related Work. Where a Submittal is required by the Contract Documents or the schedule of Submittals accepted by the **Design Professional**, any related Work performed prior to the **Design Professional's** review and approval of the pertinent Submittal will be at the sole expense and responsibility of the **Contractor**.

5.19.13. Informational Submittals. Informational Submittals upon which the **Design Professional** is not expected to take responsive action may be so identified in the Contract Documents.

5.19.14. Certification. When professional certification of performance criteria of materials, systems or equipment is required by the Contract Documents, the **City** shall be entitled to rely upon such certifications, and neither the **City** nor the **Design Professional** shall be expected to make any independent examination with respect thereto.

5.20. Continuing the Work.

5.20.1. The **Contractor** shall carry on the Work and adhere to the progress schedule during all disputes or disagreements with the **City**. No Work shall be delayed or postponed pending resolution of any disputes or disagreements, except as otherwise provided herein or as the **City** and the **Contractor** may agree in writing.

5.21. Use of Site; Access to Work.

5.21.1. The right of possession of the premises and the improvements made thereon by the **Contractor** shall remain at all times in the **City**. The **Contractor's** right to entry and use thereof arises solely from the permission granted by the **City** under the Contract Documents.

The **Contractor** shall confine the **Contractor's** apparatus, the storage of materials, and the operations of the **Contractor's** workers to limits indicated by law, ordinance, the Contract Documents and permits and/or directions of the **Design Professional** and shall not unreasonably encumber the premises with the **Contractor's** materials. The **City** shall not be liable to the **Contractor**, the Subcontractors, Suppliers, or anyone else with respect to the conditions of the premises, except for a condition caused directly and solely by the negligence of the **City**.

5.21.2. At all times, the **City** and the **Design Professional** shall have access to the Work.

5.22. Protection of Persons and Property.

5.22.1. **In General.** The **Contractor** shall be responsible for initiating, maintaining, and supervising all health and safety precautions and programs in connection with the performance of the Contract. The **Contractor** is responsible for the implementation of all Federal, State, and local health and safety requirements.

5.22.2. The **Contractor** shall take reasonable precautions for safety of, and shall provide reasonable protection to prevent damage, injury, or loss to:

5.22.2.1. employees on the site and other persons who may be affected thereby;

5.22.2.2. the Work, materials, and equipment to be incorporated therein, whether in storage on or off the site, under the care, custody or control of the **Contractor**, Subcontractors, or Sub-subcontractors;

5.22.2.3. other property at the site or adjacent or in close proximity thereto, such as trees, shrubs, lawns, walks, pavements, roadways, structures, and utilities not designated for removal, relocation, or replacement in the course of construction; and

5.22.2.4. any other property of the **City**, whether or not forming part of the Work, located at the site or adjacent thereto in areas to which the **Contractor** has access.

5.22.3. **Notices and Compliance.** The **Contractor** shall give notices and comply in all other respects with applicable laws, ordinances, rules, regulations, codes, and lawful orders of public authorities bearing on the safety of persons or property or their protection from damage, injury, or loss. The **Contractor** shall notify owners of adjacent and nearby properties of underground facilities and utility owners when prosecution of the Work may affect them and shall cooperate with them in the protection, removal, relocation, and replacement of their property.

5.22.4. **Erection and Maintenance of Safeguards.** The **Contractor** shall erect and maintain, as required by existing conditions and the terms of the Contract, reasonable safeguards for safety and protection, including posting danger signs and other warnings against hazards, promulgating safety regulations, and notifying owners and users of adjacent and nearby sites and utilities.

5.22.5. Hazardous Materials and Equipment. When use or storage of explosives or other hazardous materials or equipment or unusual methods are necessary for execution of the Work, the **Contractor** shall exercise utmost care and carry on such activities under the supervision of properly qualified personnel.

5.22.6. Damage to Property. The **Contractor** shall promptly remedy damage and loss to property referred to above. If the damage or loss is due in whole or in part to the **Contractor's** failure to take the precautions required herein, the **Contractor** shall bear the cost, subject to any reimbursement to which the **Contractor** is entitled under property insurance required by the Contract Documents. The **Contractor** shall be fully and solely responsible for all Work and other operations carried out on adjacent properties. The insurance required under Article 8 shall cover such Work or operations, and the **Contractor** shall indemnify and defend the **City**, the **Design Professional**, and the owners of such adjacent or nearby properties from and against all claims, suits, losses, or costs arising out of such Work or operations.

5.22.7. Fire Protection Equipment and Services. The **Contractor** shall provide and maintain in good operating condition suitable and adequate fire protection equipment and services and shall comply with all reasonable recommendations regarding fire protection made by the representatives of the fire insurance company carrying insurance on the Work or by the local fire chief or fire marshal. The area within the site limits shall be kept orderly and clean and all combustible rubbish shall be promptly removed from the site.

5.22.8. Protection of Excavations, Trenches, etc. The **Contractor** shall at all times protect excavations, trenches, buildings and materials from rain water, ground water, backup or leakage of sewers, drains and other piping, and from water of any other origin and shall remove promptly any accumulation of water. The **Contractor** shall provide and operate all pumps, piping, and other equipment necessary to this end.

5.22.9. Snow and Ice Removal. The **Contractor** shall remove snow and ice that might result in damage or delay.

5.22.10. Safety Representative. The **Contractor** shall designate a qualified and experienced safety representative at the site whose duties and responsibilities shall be the prevention of accidents and the maintaining and supervising of safety precautions and programs.

5.22.11. Weather Protection. (Reference: M.G.L. c. 149, §44F(1).) The **Contractor** shall install weather protection and furnish adequate heat in the protected area from November 1 through March 31.

5.22.12. Security. The **Contractor** shall provide, within the Contract Sum, a sufficient number of security personnel at the Site at all times when the **Contractor's** personnel are not present, from commencement of the Work until Substantial Completion to assure that the Site, the facility, and the Work, and all materials and equipment stored at the Site are fully and completely protected against loss or damage due to vandalism, theft, or malicious mischief. If

the **Contractor** elects, in addition, to use guard dogs for this purpose, each dog shall at all times be accompanied by an adult handler. If the **Contractor** fails to comply with the requirements of this paragraph, then the **City** may provide appropriate security and charge the cost thereof to the **Contractor**. The **City's** provision of such security, or failure to do so, shall not relieve the **Contractor** of its responsibility to pay for loss or damage due to vandalism, theft, or malicious mischief at the Site.

5.22.13. Hazard Communication Programs. The **Contractor** shall be responsible for coordinating any exchange of material safety data sheets or other hazard communications information required to be made available to or exchanged between or among employers at the site in accordance with laws, codes and regulations.

5.22.14. Noise Pollution Control. The **Contractor** shall comply with all applicable provisions of Somerville Municipal Code §9-109.

5.23. Cutting and Patching.

5.23.1. In General. Unless otherwise provided in the Contract Documents, the **Contractor** shall be responsible for cutting, fitting, or patching required to complete the Work or to make its parts fit together properly, including the work of the City or of separate contractors.

5.23.2. Damage to Work of City or of Separate Contractor. The **Contractor** shall not damage or endanger a portion of the Work or fully or partially completed construction of the **City** or separate contractors by cutting, patching, or otherwise altering such construction, or by excavation. The **Contractor** shall not cut or otherwise alter such construction by the **City** or a separate contractor except with prior written consent of the **City** and of such separate contractor; such consent shall not be unreasonably withheld. The **Contractor** shall not unreasonably withhold from the **City** or a separate contractor the **Contractor's** consent to cutting or otherwise altering the Work.

5.23.3. Damage Caused by Contractor. Should the **Contractor** cause damage to the work or property of any separate contractor at the Site, or should any claim arising out of the **Contractor's** performance of Work at the Site be made by any separate contractor against the **Contractor**, the **City**, the **Design Professional**, or any of the **Design Professional's** consultants, the **Contractor** shall promptly attempt to settle with such other contractor by agreement, or to otherwise resolve the dispute by arbitration or at law. The **Contractor** shall, to the fullest extent permitted by laws and regulations, indemnify and hold harmless the **City**, the **Design Professional**, and the **Design Professional's** consultants from and against all claims, damages, losses and expenses (including, but not limited to, fees of the Design Professional, the Design Professional's consultants, attorneys, and other professionals, and court and arbitration or mediation costs) arising directly, indirectly or consequentially out of any action, legal or equitable, brought by any separate contractor against the **City**, the **Design Professional**, or any of the **Design Professional's** consultants, to the extent based on a claim arising out of the **Contractor's** performance of the Work. Should a separate contractor cause damage to the Work or property of the **Contractor** or should the performance of work by any separate contractor at the site give rise to any other claim, the **Contractor** shall not institute any action, legal or

equitable, against the **City**, the **Design Professional**, or any of the **Design Professional's** consultants, or permit any action against any of them to be maintained and continued in its name or for its benefit in any court or before any arbiter which seeks to impose liability on or to recover damages from the **City**, the **Design Professional**, or any of the **Design Professional's** consultants, on account of any such damage or claim. If the **Contractor** delays at any time in performing or furnishing Work by any act or neglect of a separate contractor and the **City** and the **Contractor** are unable to agree as to the extent of any adjustment in the Contract Time attributable thereto, the **Contractor** may make a claim for an extension of time in accordance with Article 16. An extension of the Contract Time shall be the **Contractor's** exclusive remedy with respect to the **City**, the **Design Professional**, and the **Design Professional's** consultants, for any delay, disruption, interference, or hindrance caused by any separate contractor.

5.24. Cleaning Up.

5.24.1. During the progress of the Work, the **Contractor** shall keep the premises and surrounding area free from accumulation of waste materials and rubbish caused by operations under the Contract or other debris. At the completion of the Work, the **Contractor** shall remove from and about the Project all waste materials, rubbish, and debris, and the **Contractor's** tools, construction equipment, machinery, and surplus materials. Surplus materials to be provided to the **City** by specifications shall be stored in a clean, safe and secure area as directed by the **City**. The **Contractor** shall leave the site clean and ready for occupancy by the **City** at Substantial Completion of the Work. Immediately prior to the **Design Professional's** inspection for Substantial Completion, the **Contractor** shall completely clean the premises. Concrete and ceramic surfaces shall be cleaned and washed. Resilient coverings shall be cleaned, waxed and buffed. Woodwork shall be dusted and cleaned. Sash, fixtures and equipment shall be thoroughly cleaned. Stains, spots, dust, marks and smears shall be removed from all surfaces. Hardware and all metal surfaces shall be cleaned and polished. Glass and plastic surfaces shall be thoroughly cleaned by professional window cleaners. All damaged, broken or scratched glass or plastic shall be replaced by the **Contractor** at the **Contractor's** expense. The **Contractor** shall restore to original condition all property not designated for alteration by the Contract Documents.

5.24.2. If the **Contractor** fails to clean up as provided herein, the **City** may do so and charge the cost thereof to the **Contractor**.

5.25. Royalties and Patents.

5.25.1 The **Contractor** shall pay all license fees and royalties and assume all costs incident to the use in the performance of the Work or the incorporation in the Work of any invention, design, process, product, or device which is the subject of patent rights or copyrights held by others. To the fullest extent permitted by law, the **Contractor** shall indemnify and hold harmless the **City** and the **Design Professional** from and against all claims, costs, losses, and damages arising out of or resulting from any infringement of patent rights or copyrights incident to the use in the performance of the work or resulting from the incorporation in the work of any invention, design, process, product, or device not specified in the Contract Documents.

compensation or benefits payable by or for the **Contractor** or a Subcontractor under Workers' Compensation laws, disability benefit acts or other employee benefit acts.

5.27.3. The obligations of the **Contractor** in this Article shall not extend to the liability of the **Design Professional**, the **Design Professional's** consultants, and agents or employees of any of them arising out of (1) the preparation of maps, Plans, opinions, reports, surveys, Change Orders, designs, or Specifications, or (2) directions or instructions given by the **Design Professional**, the **Design Professional's** consultants and agents or employees of any of them, provided such instructions or directions are the primary cause of the injury or damage.

5.27.4. The **Contractor**, or any successor, assign, or subrogee of the **Contractor** agrees not to bring any civil suit, action, or other proceeding in law, equity or arbitration against the **Design Professional**, or the officers, employees, agents, or consultants of the **Design Professional**, for the enforcement of any action which the **Contractor** may have arising out of or in any manner connected with the Work. The **Contractor** shall assure that this covenant not to sue is contained in all subcontracts and sub-subcontracts of every tier and shall assure its enforcement. The **Design Professional**, its officers, employees, agents, and consultants are intended third-party beneficiaries of this covenant not to sue, and are entitled to enforce this covenant in law or equity.

5.28. Survival of Obligations.

5.28.1 All representations, indemnifications, warranties, and guarantees made in, required by or given in accordance with the Contract Documents, as well as all continuing obligations indicated in the Contract Documents, will survive final payment, completion and acceptance of the Work and termination or completion of the Contract.

ARTICLE 6: SUBCONTRACTORS

6.1 Use of Subcontractors.

6.1.1 The **Contractor** shall use the Subcontractors named in the **Contractor's** Bid.

6.2 Substitution of Subcontractors.

6.2.1 The **Contractor** shall not substitute another Subcontractor therefore without notice to the **City** and the **City's** prior written consent of such substitution.

6.3 Names of Subcontractors.

6.3.1 Upon execution of the Contract with the **City**, the **Contractor** shall provide in writing to the **City**, through the **Design Professional**, the names, addresses, telephone numbers, and fax numbers of all persons proposed for each principal portion of the Work.

6.4. Objections to Subcontractors.

6.4.1 The **Contractor** shall not use any Subcontractor against whom the **City** has a reasonable objection. The **Contractor** shall not be required to contract with any person or entity against whom it has a reasonable objection.

6.5. Form of the Subcontract.

6.5.1 All Work performed by a Subcontractor shall be through an appropriate subcontract. The form of subcontract shall be submitted to the **City's Law Department** for its approval, which shall not be unreasonably withheld or delayed.

6.6. Content of the Subcontract.

6.6.1. In addition to all statutorily mandated provisions and provisions required elsewhere in the Contract Documents, each subcontract shall expressly provide that:

6.6.1.1. Each subcontract agreement for a portion of the Work is assigned by the **Contractor** to the **City** provided that:

6.6.1.1.1. the assignment is effective only after termination of the Contract by the **City** or the **Contractor** and only for those subcontract agreements which the **City** accepts by notifying the Subcontractor in writing; and

6.6.1.1.2. the assignment is subject to the prior rights of the surety, if any, obligated under bond relating to the Contract.

6.6.1.2. Each Subcontractor is bound by the requirements of the Contract Documents for the express benefit of the **City**.

6.6.1.3. Each Subcontractor shall assume toward the **Contractor** all the obligations that the **Contractor** assumes toward the **City** and the **Design Professional**, unless otherwise provided by law.

ARTICLE 7: PERFORMANCE AND PAYMENT BONDS

7.1. Form of Bonds.

7.1.1 The performance and labor and material or payment bonds shall be in the form required by the **City**, copies of which are included in the Project Manual. The **City** reserves the right to reject any bond that does not conform to the **City's** requirements.

7.2. Furnished by the Contractor. (*Reference: M.G.L. c.30, §39M(c);, M.G.L. c.149, §29).*

7.2.1 The **Contractor** shall furnish a performance bond and a labor and materials or payment bond, each with a surety company qualified to do business under the laws of the

Commonwealth and satisfactory to the **City** and each in the sum of the Contract Sum, the premiums for which are to be paid by the **Contractor** and are included in the Contract Sum. The bonds shall remain in effect until final payment is made. The sum of the performance bond shall increase each time the Contract Sum is increased as a result of a Change Order.

7.3. Submission to the City.

7.3.1 The **Contractor** must submit the performance and a labor and materials or payment bonds to the **City** upon the **Contractor's** execution of the Agreement.

ARTICLE 8: INSURANCE REQUIREMENTS

8.1 Insurance Certificates.

8.1.1 Prior to starting work on this project, the contractor shall deposit with the **City**, certificates from insurers clearly stating that the required insurance policies have been issued to the **Contractor** and will remain in effect during the time period required to complete this contract. ACCORD forms will not be accepted. The certificates must be in a form satisfactory to the **City**. The insurance shall include all major divisions of coverage, and shall be on a comprehensive general basis including: Premises and Operations (including X-C-U), Owners and Contractors Protective, Products and Completed Operations, Owned, Non-owned or Hired and/or Leased Motor Vehicles. Such insurance shall be written for not less than any limits of liability, required by law or the following limits, whichever are greater.

8.2 Minimum Coverages. The **Contractor** shall possess and maintain throughout the contract period/project, insurance in the kinds and amounts as provided in Appendix D. The **Contractor** may purchase and maintain excess liability insurance in the in the umbrella form in order to satisfy the limits of liability required for the insurance to be purchased and maintained in accordance with the required requirements set forth above (in addition to the umbrella limits required). Evidence of such excess liability shall be delivered to the **City** in the form of a certificate and the certificate indicating the policy numbers and limits of liability of all underlying insurance.

8.3 Additional Insured. The **City** shall be named as an additional insured on each certificate, and the certificate must have the endorsement of the insurance agency.

8.4 Notice. Each certificate shall contain a notation that the insurer will give 30 days notice to the **City** prior to cancellation, change or non-renewal of policy.

8.5 Carrier Rating. Insurance carriers **MUST** have an A.M. Best rating of "A" or better.

8.6 Material Breach. Failure of the contractor to provide and continue in force such insurance shall be deemed a material breach of contract and shall operate as immediate termination thereof.

ARTICLE 9: TESTS AND INSPECTIONS

9.1. Access.

9.1.1 The **City**, the **Design Professional**, and all other persons designated by the **City** shall have access to the Work at reasonable times for observing, inspecting, and testing. The **Contractor** shall provide them with proper and safe conditions for such access and advise them of the **Contractor's** site safety procedures and programs so that they may comply therewith as applicable.

9.2. Tests and Inspections.

9.2.1. The **Contractor** shall give the **Design Professional** timely notice of readiness of the Work for all required inspections, tests, or approvals and shall cooperate with inspection and testing personnel to facilitate required inspections or tests.

9.2.2. Unless otherwise provided, the **Contractor** shall make arrangements for such tests, inspections, and approvals with an independent testing laboratory or entity acceptable to the **City**, or with the appropriate public authority and shall bear all related costs of tests, inspections, and approvals. If the laws or regulations of any public body having jurisdiction require any Work or part thereof specifically to be inspected, tested, or approved by an employee or other representative of such public body, the **Contractor** shall assume full responsibility for arranging and obtaining such inspections, tests, or approvals, pay all costs in connection therewith and furnish the **Design Professional** with the required certificates of inspection, testing, or approval.

9.2.3. The **Contractor** shall be responsible for arranging and obtaining and shall pay all costs in connection with any inspections, tests, or approvals required for the **Design Professional's** acceptance of materials or equipment to be incorporated into the Work, or of materials, mix designs, or equipment submitted for approval prior to the **Contractor's** purchase thereof for incorporation into the Work.

9.2.4. If any Work that is to be inspected, tested, or approved is covered by the **Contractor**, Subcontractor, or Sub-subcontractor without the prior written consent of the **Design Professional**, it must be uncovered for observation, inspection, testing, or approval, if requested by the **Design Professional**. The **Contractor** must recover the Work at its own expense.

9.2.5. The **Contractor** shall not be relieved of obligations to perform the Work in accordance with the Contract Documents either by activities or duties of the **Design Professional** in the **Design Professional's** administration of the Contract or by tests, inspections, or approvals required or performed by persons other than the **Contractor**.

ARTICLE 10

UNCOVERING AND CORRECTING WORK

10.1. Uncovering Work.

10.1.1. If a portion of the Work is covered contrary to the **Design Professional's** request or to requirements specifically expressed in the Contract Documents, it must, if required in writing by the **Design Professional**, be uncovered for the **Design Professional's** observation and be replaced, both at the **Contractor's** expense and without change in the Contract Time.

10.1.2. If a portion of the Work has been covered which the **Design Professional** has not specifically requested to observe prior to its being covered, the **Design Professional** may request to see such Work, and it shall be uncovered by the **Contractor**. If it is found that such Work is in accordance with the Contract Documents, costs of uncovering and replacing shall, by appropriate Change Order, be charged to the **City**. If it is found that such Work is defective or not in accordance with the Contract Documents, the **Contractor** shall pay all claims, costs, losses, and damages caused by, arising out of or resulting from such uncovering, exposure, observation, inspection, and testing and of satisfactory replacement of reconstruction (including, but not limited to, all costs of repair or replacement of work of others); and the **City** shall be entitled to an appropriate decrease in the Contract Sum. The **City** may take such decrease by reducing the then current application for payment accordingly or subsequent applications, if necessary, until the decrease is paid in full.

10.2. Correcting Work.

10.2.1. The **Contractor** shall promptly correct Work rejected by the **Design Professional** or failing to conform to the requirements of the Contract Documents, whether observed before or after Substantial Completion and whether or not fabricated, installed, or completed. The **Contractor** shall bear all costs of correcting such rejected Work including additional testing and inspections and compensation for the **Design Professional's** services and expenses made necessary thereby and any cost, loss, or damages to the **City** resulting from such failure or defect.

10.2.2. If, within one (1) year after the date of Substantial Completion of the Work or designated portion thereof, or after the date for commencement of warranties established in Article 15, or by terms of an applicable special warranty required by the Contract Documents, any of the Work is found to be not in accordance with the requirements of the Contract Documents, the Contractor shall correct it promptly after receipt of written notice from the **City** to do so, unless the **City** has previously given the **Contractor** a written acceptance of such condition. This period of one (1) year shall be extended with respect to portions of Work first performed after Substantial Completion by the period of time between Substantial Completion and the actual performance of the Work. This obligation to correct under this paragraph shall survive acceptance of the Work under the Contract and termination of the Contract. The **City** shall give such notice promptly after discovery of the condition.

10.2.3. The **Contractor** shall correct, remove, or replace portions of the Work that are not in accordance with the requirements of the Contract Documents and are neither corrected by the **Contractor** nor accepted by the **City**.

10.2.4. If the **Contractor** fails within a reasonable time to correct nonconforming Work, or to remove and replace rejected Work, or fails to perform the Work in accordance with the Contract Documents, the **City** may correct it in accordance with the provisions herein. If the **Contractor** does not proceed with correction, removal, or replacement of such nonconforming Work within seven (7) days from the date of written notice from the **Design Professional**, the **City** may correct it and store any salvageable materials or equipment at the **Contractor's** expense. If the **Contractor** does not pay costs of any such removal and storage within ten (10) days after written notice, the **City** may upon ten (10) additional days' written notice sell such materials and equipment at auction or at private sale and shall account for the proceeds thereof, after deducting costs and damages that should have been borne by the **Contractor**, including compensation for the **Design Professional's** services and expenses made necessary thereby. If such proceeds of sale do not cover all the costs that the **Contractor** should have born, the Contract Sum shall be reduced by the deficiency. If payments then or thereafter due the **Contractor** are not sufficient to cover such amount, the **Contractor** shall pay the difference to the **City**.

10.2.5. The **Contractor** shall bear the cost of correcting destroyed or damaged construction, whether completed or partially completed, of the **City** or separate contractors caused by the **Contractor's** correction or removal of Work which is not in accordance with the requirements of the Contract Documents.

10.2.6. Nothing contained in this paragraph shall be construed to establish a period of limitation with respect to other obligations that the **Contractor** might have under the Contract Documents. Establishment of the time period of one (1) year as described in the above paragraph related only to the specific obligation of the **Contractor** to correct the Work and has no relationship to the time within which the obligation to comply with the Contract Documents may be sought to be enforced nor to the time within which proceedings may be commenced to establish the **Contractor's** liability with respect to the **Contractor's** obligations other than specifically to correct the Work.

10.3. Acceptance of Nonconforming Work.

10.3.1 If, instead of requiring correction or removal and replacement of defective or nonconforming Work, the **City** prefers to accept Work which is not in accordance with the requirements of the Contract Documents, the **City** may do so instead of requiring its removal and correction, in which case the **Contractor** shall pay all claims, costs, losses, and damages attributable to the **City's** evaluation of and determination to accept such defective or nonconforming Work. The Contract Sum will be reduced as appropriate. Such adjustment shall be effected whether or not final payment has been made.

ARTICLE 11: CHANGES IN THE WORK

11.1. In General.

11.1.1. The Contract Sum constitutes the total compensation (subject to authorized adjustments) payable to the **Contractor** for performing the Work. All duties, responsibilities and obligations assigned to or undertaken by the **Contractor** shall be at the **Contractor's** expense without any change in the Contract Sum.

11.1.2. Without invalidating the Contract and without notice to any surety, the **City** may, at any time or from time to time, order additions to, deletions from, or revisions in the Work. Such additions, deletions, or revisions will be authorized by a Change Order, a Modification or a **Construction Change Directive**. Upon receipt of any such document, the **Contractor** shall promptly proceed with the Work involved that will be performed under the applicable conditions of the Contract Documents (except as otherwise specifically provided).

11.1.3. The **Contractor** shall not be entitled to an increase in the Contract Sum or an extension of the Contract Time with respect to any Work performed that is not required by the Contract Documents as amended, modified, or supplemented, except as otherwise provided herein.

11.2. Change Orders.

11.2.1. (*Reference: M.G.L. c. 30, §39I;*). The **Contractor** shall perform all the Work required by this Contract in conformity with the Plans and Specifications contained herein. No willful and substantial deviation from said Plans and Specifications shall be made unless authorized in writing by the **City** and the **Design Professional** in charge of the Work who is duly authorized by the **City** to approve such deviations. In order to avoid delays in the prosecution of the Work required by such Contract, such deviation from the Plans or Specifications may be authorized by a written order of the **City** or the **Design Professional** so authorized to approve such deviation. Within thirty (30) days thereafter, such written order shall be confirmed by a certificate of the **City** stating: (1) If such deviation involves any substitution or elimination of materials, fixtures or equipment, the reasons why such materials, fixtures, or equipment were included in the first instance and the reasons for substitution or elimination, and, if the deviation is of any other nature, the reasons for such deviation, giving justification therefore; (2) that the specified deviation does not materially injure the Project as a whole; (3) that either the work substituted for the Work specified is of the same cost and quality, or that an equitable adjustment has been agreed upon between the **City** and the **Contractor** and the amount in dollars of said adjustment; and (4) that the deviation is in the best interest of the **City**.

11.3. Construction Change Directive.

11.3.1. A **Construction Change Directive** shall be used in the absence of total agreement on the terms of a Change Order.

11.3.2. Upon request of the **City** or the **Design Professional**, the **Contractor** shall without cost to the **City** submit to the **Design Professional** in such form as the **Design Professional** may require, an accurate written estimate of the cost of any proposed extra work or change. The estimate shall indicate the quantity and unit cost of each item of materials, and the number of hours of work and hourly rate for each class of labor, as well as the description and amounts of all other costs chargeable under the terms of this Article. Unit labor costs for the installation of each item of materials shall be shown if required by the **Design Professional**. If required by the **Design Professional**, in order to establish the exact cost of new Work added or of previously required Work omitted, the **Contractor** shall obtain and furnish to the **Design Professional** bona fide proposals from recognized Suppliers for furnishing any material included in such Work. Such estimates shall be furnished promptly so as to occasion no delay in the Work, and shall be furnished at the **Contractor's** expense.

11.3.3. The **Contractor** shall state in the estimate any extension of time required for the completion of the Work if the change or extra Work is ordered. The **Contractor** shall document, through a critical path analysis, or some other clearly delineated explanation, how the proposed change affects other aspects of the Work, and why it would require an extension of time. The **Contractor** shall promptly revise and resubmit such estimate if the **Design Professional** determines that it is not in compliance with the requirements of this Article, or that it contains errors of fact or mathematical errors.

11.3.4. If the **Construction Change Directive** provides for an adjustment to the Contract Sum, the adjustment shall be based on one of the following methods, as selected by the **City**, selection of which does not require the consent of the **Contractor**:

11.3.4.1. by unit prices stated in the Contract Documents or otherwise mutually agreed upon; or

11.3.4.2. by Cost and Percentages estimated by the **Contractor** as provided herein and accepted by the **City**, whereupon the **Contractor's** estimate shall become a fixed price which shall not be changed by any variation in the actual cost of executing the Work covered by the change; or

11.3.4.3. by actual Cost determined after the Work covered by the change is completed, plus Percentage; or

11.3.4.4. by submission to arbitration or a court, which shall determine the fair value of the Work covered by the change.

11.3.5. "Cost" shall mean the estimated or actual net increase or decrease in cost to the **Contractor**, Subcontractor, or Sub-subcontractor for performing the Work covered by the change, including actual payments for materials, equipment rentals, expendable items, wages, and associated benefits to the workers and to supervisors employed full time at the Site, insurance, bonds, and other provable direct costs, but not including any administrative, accounting or expediting costs, or other indirect or overhead costs, or any wages or benefits of supervisory personnel not assigned full time to the Site, or any amount for profit or fee to the

Contractor, Subcontractor, or Sub-subcontractor.

11.3.6. "Percentage" shall mean an allowance to be added to or subtracted from the Cost in lieu of overhead and profit and of any other expense that is not included in the Cost of the Work covered by the change, as defined above. Percentage for a Sub-subcontractor shall be 8% of any net increase or decrease of Cost of any Work performed by the Sub-subcontractor's own forces plus 4% of any net increase or decrease in Cost of any Work performed for the Sub-subcontractor by lower tier Sub-subcontractors. Percentage for a Subcontractor shall be 12% of any net increase or decrease of Cost of any Work performed by the Subcontractor's own forces plus 4% of the Cost of Work performed by Sub-subcontractors. Percentage for the **Contractor** shall be 15% of any net increase or decrease of Cost of any Work performed by the **Contractor's** own forces plus 5% of any net increase or decrease in the Cost for all other Work covered by the change. When the **Contractor** is also performing Work as a Subcontractor or Sub-subcontractor, the **Contractor** shall only be entitled to a total of no more than 15% of any net increase or decrease of Cost of any Work.

11.3.7. When in the reasonable judgment of the **Design Professional** a series of **Construction Change** Directives or Change Orders effect a single change, Percentage shall be calculated on the cumulative net increase or decrease in Cost, if any.

11.3.8. If unit prices are stated in the Contract Documents or are subsequently agreed upon, and if quantities originally contemplated are so changed in a Proposed Change Order or **Construction Change** Directive that the application of such unit prices to quantities of Work proposed will cause substantial inequity to the **City** or the **Contractor**, the applicable unit prices shall be equitably adjusted.

11.3.9. If the **City** elects to determine the Cost of the Work as provided in method (11.3.4.1) using unit prices stated in the Contract Documents or subsequently agreed upon, the unit prices shall be subject to the prior paragraph. Notwithstanding the inclusion of unit prices in the Contract Documents, it shall be the **City's** option to require the Cost of any given change to be determined by one of the other methods stated in 11.3.4. If the **City** elected to determine the Cost of the change by unit prices and the nature of the work is such that its extent cannot readily be measured after the completion of such work or any subsequent Work, the **Contractor** shall keep daily records, available at all times to the **Design Professional** for inspection, of the actual quantities of such Work put in place, and delivery receipts or other adequate evidence, acceptable to the **Design Professional**, indicating the quantities of materials delivered to the Site for use in such unit price Work, and distinguishing such from other similar material delivered for use in Work include in the base Contract Sum. If so required by the **Design Professional**, materials for use in unit price Work shall be stored apart from all other materials on the Project.

11.3.10. If the **City** elects to determine the Cost of the Work as provided in methods 11.3.4.3. or 11.3.4.4. or if the method of determining the Cost has not been established before the Work is begun, the **Contractor** shall keep detailed daily records of labor and material costs applicable to the Work.

11.3.11. Upon receipt of a **Construction Change Directive**, the **Contractor** shall promptly proceed with the change in the Work involved and advise the **Design Professional** in writing of the **Contractor's** agreement or disagreement with the method, if any, provided in the **Construction Change Directive** for determining the proposed adjustment in the Contract Time.

11.3.12. A **Construction Change Directive** signed by the **Contractor** indicates the agreement of the **Contractor** therewith, including adjustment in the Contract Sum and Contract Time or the method for determining them. Such agreement shall be effective immediately and shall be recorded as a Change Order.

11.3.13. If the **Design Professional** and the **Contractor** do not agree with the adjustment in the Contract Time or the method for determining it, the adjustment or the method shall be referred to the **Design Professional** for determination.

11.4. Minor Changes in the Work.

11.4.1. The **Design Professional** has the authority to order minor changes in the Work. "Minor changes" as used in this paragraph mean changes which are so insignificant as to not affect the Contract Sum or the Contract Time and which are not inconsistent with the intent of the Contract Documents. Any minor change shall be committed to a written order which shall be binding on both the **City** and the **Contractor** and which shall be promptly carried out by the **Contractor**.

11.5. **Certificate of Appropriations.** (*Reference: M.G.L. c. 44, §31C;*). This Contract shall not be deemed to have been made until the **City's** auditor has certified thereon that an appropriation in the amount of this Contract is available therefor and that an officer or agent of the **City** has been authorized to execute said Contract and approve all requisitions and change orders. No order to the **Contractor** for a change in or addition to the Work, whether in the form of a drawing, plan, detail or any other written instruction, unless it is an order which the **Contractor** is willing to perform without any increase to the Contract price, shall be deemed to be given until the auditor has certified thereon that an appropriation in the amount of such order is available therefore; but such certificate shall not be construed as an admission by the **City** of its liability to pay for such work. The certificate of the auditor that an appropriation in the amount of this Contract or in the amount of such order is available shall bar any defense by the **City** on the grounds of insufficient appropriation.

ARTICLE 12: CHANGE IN THE CONTRACT TIME

12.1. Date of Commencement.

12.1.1 The date of commencement of the Work is the date established in the Notice to Proceed. The date shall not be postponed by the failure to act of the **Contractor** or persons or entities for whom the **Contractor** is responsible.

12.2. Progress and Completion.

12.2.1. Time is of the essence; all time limits stated in the Contract Documents are of the essence of the Contract. By executing the Agreement, the **Contractor** confirms that the Contract Time is a reasonable period for performing the Work.

12.2.2. The **Contractor** shall proceed expeditiously with adequate forces and shall achieve Substantial Completion within the Contract Time.

12.2.3. Within five (5) working days of award of contract, the **Contractor** shall submit to the **Design Professional** a progress schedule showing for each class of Work included in the schedule of values, the percentage of completion to be obtained and the total dollar value of Work to be completed as of the first of each month until Substantial Completion. All calculations shall be on the basis of Work in place, but may include, at the **Design Professional's** discretion, the value of materials delivered but not in place.

12.2.4. The progress schedule shall be based on an orderly progression of the Work, allowing adequate time for each operation (including adequate time for submission and review of submittals), and leading to a reasonable certainty of Substantial Completion by the date established in the Agreement. The progress schedule will be reviewed by the **Design Professional** for compliance with the requirements of this Article and will be accepted by the **Design Professional** or returned to the **Contractor** for revision and resubmittal. Unless specifically required by law, no payment under this Contract shall be due until the progress schedule has been approved by the **Design Professional**. The **Design Professional's** review of the progress schedule shall not impose any duty on the **Design Professional** or the **City** with respect to the timing, planning, scheduling, or execution of the Work. In particular, if the **Contractor** proposes a progress schedule indicating a date of Substantial Completion which is earlier than the Contract Time, the **Contractor** shall not be entitled to additional payment or compensation of any kind if, for any reason, the full Contract Time is required to achieve Substantial Completion of the Work.

12.2.5. If in any Application for Payment, the total value of the completed Work in place, as certified by the **Design Professional**, is less than 90% of the total value of the Work in place estimated in the progress schedule, the **City** may, at the **City's** option, require the **Contractor** to accelerate the progress of the Work without cost to the **City** by increasing the workforce or hours of Work or by other reasonable means approved by the **Design Professional**.

12.2.6. If each of three successive applications, as certified by the **Design Professional**, indicate that the actual Work completed is less than 90% of the values estimated in the progress schedule to be completed by the respective dates, the **City** may at the **City's** option, treat the **Contractor's** delinquency as a default justifying the action permitted under Article 18.

12.2.7. If the **Design Professional** has determined that the **Contractor** should be permitted to extend the time for completion as provided below, the calendar dates in the progress schedule shall be adjusted accordingly to retain their same relationship to the adjusted date of Substantial Completion, and the dollar value of the Work to be completed as of the first of each

month shall be adjusted pro rata.

12.2.8. If the **Contractor** fails to submit any application for payment in any month, the **Design Professional** shall, for the purpose of this evaluation of progress, certify separately to the actual value of the Work in place completed as of the first of the month to the best of the **Design Professional's** knowledge.

12.2.9. Nothing herein shall limit the **City's** right to liquidated or other damages for delays by the **Contractor** or to any other remedy which the **City** may be entitled to or may possess under other provisions of the Contract Documents or by law.

12.3. Delays and Extensions of Time.

12.3.1. If the **Contractor** is delayed at any time in the progress of the Work by an act or neglect of the **City** or the **Design Professional**, or of an employee of either, or of a separate contractor employed by the **City**, or by changes ordered in the Work, or by labor disputes, fire, unusual delay in deliveries, unavoidable casualties, or other causes (except weather) beyond the **Contractor's** control, or by delay authorized by the **City**, or by other causes which the **Design Professional** determines may justify delay, then the Contract Time shall be extended by Change Order or **Construction Change Directive** for such reasonable time as the **Design Professional** may determine.

12.3.2. Claims relating to time shall be made in accordance with applicable provisions of Article 16.

12.3.3. No claim for extension of time shall be allowed on account of failure of the **Design Professional** to furnish Plans, Specifications or instructions or to return Shop Drawings or Samples until fifteen (15) days after receipt by the **Design Professional** by registered or certified mail of written demand for such instructions, Plans, Specifications, or Samples, and then not unless such claim is reasonable.

12.3.4. No extensions of time shall be granted because of seasonal or abnormal variations in temperature, humidity or precipitation, which conditions shall be wholly at the risk of the **Contractor**, whether occurring within the time originally scheduled for completion or within the period of any extension granted. There shall be no increase in the Contract Sum on account of any additional costs of operations or conditions resulting therefrom.

12.3.5. The **Contractor** hereby agrees that the **Contractor** shall have no claim for damages of any kind against the **City** or the **Design Professional** on account of any delay in the commencement of the Work and/or any hindrance, delay, or suspension of any portion of the Work, whether such delay is caused by the **City**, the **Design Professional**, or otherwise, except as and to the extent expressly provided under M.G.L. c. 30, §39O, in the case of written orders by the **City**. The **Contractor** acknowledges that the **Contractor's** sole remedy for any such delay and/or suspension will be an extension of time as provided in this Article.

12.3.6. (*Reference: M.G.L. c. 30, §39O;*). (a) The **City** may order the **Contractor** in writing to suspend, delay, or interrupt all or any part of the Work for such period of time as it may determine to be appropriate for the convenience of the **City**, provided however that if there is a suspension, delay, or interruption for fifteen (15) days or more due to a failure of the **City** to act within the time specified in this Contract, the **City** shall make an adjustment in the Contract prices for any increase in the cost of performance of this Contract under this provision for any suspension, delay, interruption, or failure to act to the extent that such is due to any cause for which this Contract provides for an equitable adjustment of the Contract price under any other Contract provisions.

(b) The **Contractor** must submit the amount of a claim under provision (a) to the **City** in writing as soon as practicable after the end of the suspension, delay, interruption, or failure to act and, in any event, not later than the date of final payment under this Contract and, except for costs due to a suspension order, the **City** shall not approve any costs in the claim incurred more than twenty (20) days before the **Contractor** notified the **City** in writing of the act or a failure to act involved in the Claim.

In the event a suspension, delay, interruption, or failure to act of the **City** increases the cost of performance to any Subcontractor, that Subcontractor shall have the same rights against the **Contractor** for payment for an increase in the cost of its performance as provisions (a) and (b) give the **Contractor** against the **City**, but nothing in provisions (a) and (b) shall in any way change, modify, or alter any other rights which the **Contractor** or the Subcontractor may have against each other.

12.4. Liquidated Damages.

12.4.1. If the **Contractor** shall fail to achieve Substantial Completion within the Contract Time, it shall be liable to pay the **City** the daily amount specified in the Agreement, not as a penalty, but as a fixed and agreed upon damages for breach of contract. The said amount is fixed and agreed upon because of the difficulty of ascertaining the **City's** actual damages. It is mutually understood that the said amount is a reasonable approximation or estimate thereof as of the date of the Agreement. The **City** may elect to withhold said amount from periodic or final payments due to the **Contractor**, in addition to retainage and other back charges.

12.5. Changes in the Contract Time.

12.5.1. In Writing. The Contract Time may only be changed by a Change Order or a Modification. Any claim for an adjustment of the Contract Time shall be based on a written notice delivered to the party making the claim to the other party and to the **Design Professional** promptly (but in no event later than seven (7) days) after the occurrence of the event giving rise to the claim and stating the general nature of the claim. Notice of the extent of the claim with supporting data shall be delivered within thirty (30) days after such occurrence and shall be accompanied by the claimant's written statement that the adjustment claimed is the entire adjustment to which the claimant has reason to believe it is entitled as a result of the occurrence of said event. All claims for adjustment in the Contract Time shall be determined by the **Design Professional** in accordance with Article 16. No claim for an adjustment in the Contract Time

will be valid if not submitted in accordance with the requirements of this paragraph.

12.5.2. Early Completion. The Contract Time shall not be changed due to a delay in the **Contractor's** early completion date.

ARTICLE 13: PAYMENTS

13.1. Schedule of Values.

13.1.1. The **Contractor** shall submit to the **Design Professional** a schedule of values which shall subdivide the Work into its component parts and shall include quantities, direct craft labor worker hours, labor cost and material/equipment cost. Labor cost shall include an appropriate amount of construction equipment costs, supplemental costs, administrative expenses, contingencies, and profit. The **Contractor** shall prepare the schedule of values in such form and supported by such data to substantiate its accuracy as the **Design Professional** may require and shall be revised if later found by the **Design Professional** to be inaccurate. This schedule, unless objected to by the **Design Professional**, shall be used as a basis for reviewing the **Contractor's** applications for payment.

13.2. Content and Submission of Applications for Payment.

13.2.1. At least ten (10) days before the date established for each progress payment, the **Contractor** shall submit to the **Design Professional** six (6) copies of an itemized application for payment for Work completed in accordance with the schedule of values. Such application shall be in a form or format established or approved by the **Design Professional** and shall be supported by documentation substantiating the **Contractor's** right to payment.

13.2.2. When **Construction Change** Directives have set forth an adjustment to the Contract Sum but have not yet been included in Change Orders, the value established by the **City** may be included in the application.

13.2.3. Applications covering Work of Subcontractors or Suppliers shall not include requests for payments of amounts the **Contractor** does not intend to pay to a Subcontractor or Supplier because of a dispute or other reason. The **Contractor** shall not be paid for any Work performed by a Subcontractor unless and until the **City** receives for that Subcontractor a certificate of insurance that conforms to the requirements of the Contract Documents .

13.2.4. Unless otherwise provided in the Contract Documents, payments shall be made on account of materials and equipment delivered and suitably stored at the Site for subsequent incorporation in the Work. If approved in advance by the **City**, payment may similarly be made for materials and equipment suitably stored off the Site at a location agreed upon in writing. Payment for materials and equipment stored on or off the Site shall be conditioned upon the application for payment being accompanied by a bill of sale, an invoice, or other documentation warranting that the **City** has received the materials and equipment free and clear of all liens, claims, security interests, or encumbrances, hereinafter collectively referred to as "liens," and evidence that the materials and equipment are covered by appropriate insurance and other

arrangements to protect the **City's** interest therein.

13.2.5. Each application for payment or periodic estimate requesting payment shall be accompanied by, at the **City's** option, a certificate from each Subcontractor stating that the Subcontractor has been paid all amounts due the Subcontractor on the basis of the previous periodic payment to the **Contractor**, or else stating the amount not so paid and the reason for the discrepancy. In the event of any such discrepancy, the **Contractor** shall furnish the **Contractor's** own written explanation to the **City** through the **Design Professional**. Such waiver or certificate shall be in a form acceptable to the **City**.

13.3. False Applications for Payment.

13.3.1. (*Reference: M.G.L. c. 266, §§67B*). Any person who makes or presents to any claim upon or against any employee or department of the **City**, knowing such claim to be false, fictitious, or fraudulent shall be punished by a fine or not ore than ten thousand dollars (\$10,000) or by imprisonment in the state prison for not more than five (5) years, or in the house of correction for not more than two and one-half years, or both.

13.4. Review of Applications for Payment.

13.4.1. The **Design Professional** shall review each application for payment and will reject any application that (1) is not accompanied by the required documentation or (2) contains errors, mathematical or otherwise.

13.4.2. Within five (5) business days after receipt of an application for payment, the **Design Professional** will either (1) return the application to the **Contractor** with a written explanation as to why it was rejected or (2) issue to the **City** a certificate for payment, with a copy to the **Contractor**, for such amount as the **Design Professional** determines is properly due. In the event an application is returned to the **Contractor**, the date of receipt of the application shall be the date of receipt of the corrected application.

13.4.3. The **Design Professional** or the **City** may make changes to any application submitted by the **Contractor**.

13.4.4. By recommending any payment, the **Design Professional** will not thereby be deemed to have represented that: (1) exhaustive or continuous on-site inspections have been made to check the quality or the quantity of the Work beyond the responsibilities specifically assigned to the **Design Professional** in the Contract Documents or (2) that there may not be other matters or issues between the parties that might entitle the **Contractor** to be paid additionally by the **City** or entitle the **City** to withhold payment to the **Contractor**. The **Design Professional's** approval of the application for payment and the accompanying documentation shall indicate that to the best of the **Design Professional's** knowledge, information, and belief, the Work has progressed to the point indicated by the **Contractor**, and that the quality of the Work is in accordance with the Contract Documents, subject to an evaluation of the Work as a functioning whole prior to or upon Substantial Completion, the results of any subsequent tests

specified in the Contract Documents, final determination of quantities and classifications for unit price work and any other qualifications so stated.

13.4.5. The **Design Professional's** recommendation of any payment shall not mean that the **Design Professional** is responsible for the **Contractor's** means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, or for any failure of the **Contractor** to comply with laws and regulations applicable to the furnishing or performance of Work, or for any failure of the **Contractor** to perform or furnish Work in accordance with the Contract Documents.

13.4.6. No certificate given or payment made shall be evidence of the performance of this Contract, either wholly or in part and no payment, whether made upon the final certificate or otherwise, shall be construed as an acceptance of defective work or materials.

13.5. Decisions to Withhold Certification.

13.5.1. The **Design Professional** may refuse to recommend the whole or any part of any payment if, in the **Design Professional's** opinion, it would be incorrect to make the representations to the **City** referred to above.

13.5.2. If the **Contractor** and the **Design Professional** cannot agree on a revised amount, the **Design Professional** will promptly approve a certificate for payment for the amount for which the **Design Professional** is able to make such representations to the **City**. The **Design Professional** may also decide not to certify payment or, because of subsequently discovered evidence or subsequent observations, may nullify the whole or a part of a certificate for payment previously issued, to such extent as may be necessary in the **Design Professional's** opinion to protect the **City** from loss because of:

13.5.2.1. defective Work not remedied;

13.5.2.2. third party claims filed or reasonable evidence indicating probable filing of such claims;

13.5.2.3. failure of the **Contractor** to make payments properly to Subcontractors or for labor, materials or equipment;

13.5.2.4. reasonable evidence that the Work cannot be completed for the unpaid balance of the Contract Sum;

13.5.2.5. damage to the **City** or another contractor;

13.5.2.6. reasonable evidence that the Work will not be completed within the Contract Time, and that retainage currently held by the **City** would not be adequate to cover actual or liquidated damage for the anticipated delay;

13.5.2.7. persistent failure to carry out the Work in accordance with the Contract Documents; or

13.5.2.8. failure of mechanical trade or electrical trade subcontractors to comply with mandatory requirements for maintaining record drawings. The **Contractor** shall check record drawings each month. Written confirmation that the record drawings are current will be required by the **Design Professional** before approval of the **Contractor's** monthly payment requisition.

13.5.3. When the above reasons for withholding certification are removed, certification will be made for amounts previously withheld.

13.6. Progress Payments.

13.6.1. After the **Design Professional** has issued a certificate for payment, the **City** shall make payment in the manner and within the time provided in the Contract Documents.

13.6.2. (*Reference: M.G.L. c. 30, §39G*). The **City** shall pay the amount due pursuant to any periodic, Substantial Completion or final estimate within thirty-five (35) days after receipt of written acceptance for such estimate from the **Contractor**. In the case of periodic payments, the **City** may deduct from its payment a retention based on its estimate of the fair value of its claims against the **Contractor**, a retention for direct payments to Subcontractors based on demands for same in accordance with M.G.L. c. 30, §39F; and a retention to secure satisfactory performance of the contractual work, not exceeding five percent (5%) of the approved amount of any periodic payment, and the same right to retention shall apply to bonded Subcontractors entitled to direct payment under M.G.L. c. 30, §39F; provided, that a five percent (5%) value of all items that are planted in the ground shall be deducted from the periodic payments until final acceptance.

13.6.3. No periodic, Substantial Completion or final estimate or acceptance or payment thereof shall bar the **Contractor** from reserving all rights to dispute the quantity and amount of, or the failure of the **City** to approve a quantity and amount of, all or part of any Work item or extra Work item.

13.7. Final Payment.

13.7.1. After final inspection and after the **Contractor** has completed all the required corrections to the satisfaction of the **Design Professional** and the **City** and delivered in accordance with the Contract Documents all maintenance and operating instructions, schedules, guarantees, bonds, certificates, or other evidence of insurance, certificates of inspection, marked-up record documents, and all other documents called for in the Contract Documents, as well as any surplus materials requested by the **City**, the **Contractor** may make an application for final payment as provided below.

13.7.2. (*Reference: M.G.L. c. 30, §39G*). Within thirty (30) days after receipt by the **City** of a notice from the **Contractor** stating that all of the Work required by the Contract has been completed, the **City** shall prepare and forthwith send to the **Contractor** for acceptance a

final estimate for the quantity and price of the Work done and all retainage on the Work less all payments made to date, unless the **City's** inspection shows that Work required by the Contract remains incomplete or unsatisfactory, or that documentation required by the Contract has not been completed.

13.7.3. The making and acceptance of final payment will constitute a waiver of all claims by the **Contractor** against the **City** other than those previously made in writing and still unsettled.

13.8. Payments to Subcontractors.

13.8.1. Neither the **City** nor the **Design Professional** shall have an obligation to pay or see to the payment of money to a Subcontractor, Sub-subcontractor, or Supplier except as may otherwise be required by law.

13.8.2. (*Reference: M.G.L. c. 30, §39F;*) (1)(a) Forthwith after the **Contractor** receives payment on account of a periodic estimate, the **Contractor** shall pay to each Subcontractor the amount paid for the labor performed and the materials furnished by that Subcontractor, less any amount specified in any court proceedings barring such payment and also less any amount claimed due from the Subcontractor by the **Contractor**.

(b) Not later than the sixty-fifth day after each Subcontractor substantially completes its Work in accordance with the Plans and Specifications, the entire balance due under the subcontract, less amounts retained by the **City** as the estimated cost of completing the incomplete and unsatisfactory items of Work, shall be due the Subcontractor; and the **City** shall pay that amount to the **Contractor**. The **Contractor** shall forthwith pay to the Subcontractor the full amount received from the **City** less any amount specified in any court proceeding barring such payment and also less any amount claimed due from the Subcontractor by the **Contractor**.

(c) Each payment made by the **City** to the **Contractor** pursuant to paragraphs (a) and (b) of M.G.L. c. 30, §39F(1);, for the labor performed and the materials furnished by a Subcontractor shall be made to the **Contractor** for the account of that Subcontractor; and the **City** shall take reasonable steps to compel the **Contractor** to make each such payment to each such Subcontractor. If the **City** has received a demand for direct payment from a Subcontractor for any amount which has already been included in a payment to the **Contractor** or which is to be include in a payment to the **Contractor** for payment to the Subcontractor as provided in paragraphs (a) and (b) of M.G.L. c. 30, §39F(1), the **City** shall act upon the demand as provided in M.G.L. c. 30, §39F.

(d) If, within seventy (70) days after the Subcontractor has substantially completed the subcontract Work, the Subcontractor has not received from the **Contractor** the balance due under the subcontract including any amount due for extra labor and materials furnished to the **Contractor**, less any amount retained by the **City** as the estimated cost of completing the incomplete and unsatisfactory items of Work, the Subcontractor may demand direct payment of that balance from the **City**. The demand

shall be by a sworn statement delivered to or sent by certified mail to the **City**, and a copy shall be delivered to or sent by certified mail to the **Contractor** at the same time. The demand shall contain a detailed breakdown of the balance due under the subcontract and also a statement of the status of completion of the subcontract Work. [The demand letter shall indicate the certified mail number assigned by the postal service or the date of delivery to the **Contractor**.] Any demand made after substantial completion of the subcontract Work shall be valid even if delivered or mailed prior to the seventieth day after the Subcontractor has substantially completed the subcontract Work. Within ten (10) days after the Subcontractor has delivered or so mailed the demand to the **City** and delivered or so mailed a copy to the **Contractor**, the **Contractor** may reply to the demand. The reply shall be by a sworn statement delivered to or sent by certified mail to the **City**, and a copy shall be delivered to or sent by certified mail to the Subcontractor at the same time. The reply shall contain a detailed breakdown of the balance due under the subcontract, including any amount due for extra labor and materials furnished to the **Contractor** and of the amount due for each claim made by the **Contractor** against the Subcontractor.

(e) Within fifteen (15) days after receipt of the demand by the **City**, but in no event prior to the seventieth day after substantial completion of the subcontract Work, the **City** shall make direct payment to the Subcontractor of the balance due under the subcontract, including any amount due for extra labor and materials furnished to the **Contractor**, less any amount (i) retained by the **City** as the estimated cost of completing the incomplete or unsatisfactory items of Work, (ii) specified in any court proceedings barring such payment, or (iii) disputed by the **Contractor** in the sworn reply; provided that the **City** shall not deduct from a direct payment any amount as provided in part (iii) if the reply is not sworn to or for which the sworn reply does not contain the detailed breakdown required by the previous paragraph. The **City** shall make further direct payments to the Subcontractor forthwith after the removal of the basis for deductions from direct payments made as provided in parts (i) and (ii) of this paragraph.

(f) The **City** shall forthwith deposit the amount deducted from a direct payment as provided in part (iii) of the previous paragraph in an interest-bearing joint account in the names of the **Contractor** and the Subcontractor in a bank in Massachusetts selected by the **City** or agreed upon by the **Contractor** and the Subcontractor and shall notify the **Contractor** and the Subcontractor of the date of the deposit and the bank receiving the deposit. The bank shall pay the amount in the account, including accrued interest, as provided in an agreement between the **Contractor** and the Subcontractor or as determined by decree of a court of competent jurisdiction.

(g) All direct payments and all deductions from demands for direct payments deposited in an interest-bearing account or accounts in a bank pursuant to the previous paragraph shall be made out of amounts payable to the **Contractor** at the time of receipt of a demand for direct payment from a Subcontractor and out of amounts which later become payable to the **Contractor** and in the order of receipt of such demands from Subcontractors. All direct payments shall discharge the obligation of the **City** to the **Contractor** to the extent of such payment.

(h) The **City** shall deduct from payments to a **Contractor** amounts that, together with the deposits in interest-bearing accounts pursuant to paragraph (f), are sufficient to satisfy all unpaid balances of demands for direct payment received from Subcontractors. All such amounts shall be earmarked for such direct payments, and the Subcontractors shall have a right in such deductions prior to any claims against such amounts by creditors of the **Contractor**.

(i) If the Subcontractor does not receive payment as provided in paragraph (a) or if the **Contractor** does not submit a periodic estimate for the value of the labor or materials performed or furnished by the Subcontractor and the Subcontractor does not receive payment for same when due less the deductions provided for in paragraph (a), the Subcontractor may demand direct payment by following the procedure in paragraph (d) and the **Contractor** may file a sworn reply as provided in that same paragraph. A demand made after the first day of the month following that for which the Subcontractor performed or furnished the labor and materials for which the Subcontractor seeks payment shall be valid even if delivered or mailed prior to the time payment was due on a periodic estimate from the **Contractor**. Thereafter the **City** shall proceed as provided in paragraphs (e), (f), (g), and (h). "Subcontractor" as used in this paragraph (1)(i) shall mean a person approved by the **City** in writing as a person performing labor or both performing labor and furnishing materials pursuant to a contract with the **Contractor**.

(2) Any assignment by a Subcontractor of the rights under this section to a surety company furnishing a bond under the provisions of M.G.L. c. 149, §29; shall be invalid. The assignment and subrogation rights of the surety to amounts included in a demand for direct payment which are in the possession of the **City** or which are on deposit pursuant to paragraph (g) shall be subordinate to the rights of all Subcontractors who are entitled to be paid under this section and who have not been paid in full.

(3) A **Contractor** or a Subcontractor shall enforce a claim to any portion of the amount of a demand for direct payment deposited as provided in herein by a petition in equity in the superior court against the other and the bank shall not be a necessary party. A Subcontractor shall enforce a claim for direct payment or a right to require a deposit as provided in paragraph (f) by a petition in equity in the superior court against the **City** and the **Contractor** shall not be a necessary party. Upon motion of any party the court shall advance for speedy trial any petition filed as provided in this paragraph. M.G.L. c. 231, §§59 and 59B shall apply to such petitions. The court shall enter an interlocutory decree upon which execution shall issue for any part of a claim found due pursuant to §§59 and 59B and, upon motion of any party, shall advance for speedy trial the petition to collect the remainder of the claim. Any party aggrieved by such interlocutory decree shall have the right to appeal therefrom as from a final decree. The court shall not consolidate for trial the petition of any Subcontractor with the petition of one or more Subcontractors or the same general contract unless the court finds that a substantial portion of the evidence of the same events during the course of construction (other than the fact that the claims sought to be consolidated arise under the same general contract) is applicable to the petitions sought to be consolidated and that such

consolidation will present unnecessary duplication of evidence. A decree in any such proceeding shall not include interest on the disputed amount deposited in excess of the interest earned for the period of any such deposit. No person except a Subcontractor filing a demand for direct payment for which no funds due the **Contractor** are available for direct payment shall have a right to file a petition in court of equity against the **City** claiming a demand for direct payment is premature, and such Subcontractor must file the petition before the **City** has made a direct payment to the Subcontractor and has made a deposit of the disputed portion as provided in part (iii) of paragraph (e) and in paragraph (f).

(4) In any petition to collect any claim for which a Subcontractor has filed a demand for direct payment the court shall, upon motion of the **Contractor**, reduce by the amount of any deposit of a disputed amount by the **City** as provided in part (iii) of paragraph (e) and in paragraph (f) any amount held under a trustee writ or pursuant to a restraining order or injunction.

ARTICLE 14: SUBSTANTIAL COMPLETION

14.1. Substantial Completion.

14.1.1. Upon Substantial Completion of the Work, the **Contractor** shall present in writing to the **City** its certification that the Work has been substantially completed and include in its certification (1) a list of items to be completed or corrected, (2) all special warranties required by the Contract Documents, endorsed by the **Contractor** and in a form reasonably acceptable to the **Design Professional** and (3) the permits and certificates referred to in 13.7.1., or elsewhere. The failure to include any item on the list mentioned in the preceding sentence does not alter the responsibility of the **Contractor** to complete all Work in accordance with the Contract Documents. When the **Design Professional** on the basis of an inspection determines that the Work or designed portion thereof is substantially complete and the other conditions have been met, the **Design Professional** will then prepare a certificate of Substantial Completion which shall establish the date of Substantial Completion, shall state the responsibilities of the **City** and the **Contractor** for security, maintenance, heat, utilities, damage to the Work, and insurance, and shall fix the time within which the **Contractor** shall complete the items listed therein. The certificate of Substantial Completion shall be submitted to the **City** and the **Contractor** for their written acceptance of the responsibilities assigned to them in such certificate.

14.1.2. Within twenty-one (21) days after receipt of the certification from the **Contractor**, the **City** shall present to the **Contractor** either a written declaration that the Work has been substantially completed or an itemized list of incomplete or unsatisfactory work items required by the Contract sufficient to demonstrate that the Work has not been substantially completed. The **City** may include with such list a notice setting forth a reasonable time within which the **Contractor** must achieve Substantial Completion of the Work. If the **City** fails to respond, by presentation of a written declaration or itemized list as aforesaid, to the **Contractor's** certification within the twenty-one (21) day period, the **Contractor's** certification shall take effect as the **City's** declaration that the Work has been substantially completed.

14.2. Partial Use or Occupancy of the Premises.

14.2.1. The **City** may occupy or use any completed or partially completed portion of the Work at any stage. Such partial occupancy or use may begin whether or not the portion is substantially complete, provided that the respective responsibilities of the **City** and the **Contractor** with respect to payments, retainage, if any, security, maintenance, heat, utilities, damage to the Work, insurance, correction of the Work, and warranties shall be established by agreement of the **City** and the **Contractor** or, absent such agreement, shall be determined by the **Design Professional** subject to the right of either party to contest such determination as provided in Article 16.

14.2.2. Immediately prior to such partial occupancy or use, the **City**, the **Contractor** and the **Design Professional** shall jointly inspect the area to be occupied or portion of the Work to be used in order to determine and record the condition of the Work.

14.2.3. Unless otherwise agreed upon, partial occupancy or use of a portion or portions of the Work shall not constitute acceptance of Work not complying with the requirements of the Contract Documents.

14.2.4. (*Reference: M.G.L. c. 30, §39G*). Within sixty-five (65) days after the effective date of a declaration of Substantial Completion, the **City** shall prepare and send to the **Contractor** for acceptance a Substantial Completion estimate for the quantity and price of the Work done and all but one percent (1%) retainage on that Work, including the quantity, price and all but one percent (1%) retainage for the undisputed part of each item and extra work item in dispute, but excluding the disputed part thereof, less the estimated cost of completing all incomplete and unsatisfactory items and less the total periodic payments made to date for the Work. The **City** shall also deduct from the Substantial Completion estimate an amount equal to the sum of all demands for direct payment filed by Subcontractors and not yet paid to Subcontractors or deposited in joint accounts pursuant to M.G.L. c. 30, §39F.

14.2.5. (*Reference: M.G.L. c. 30, §39G*). If the **City** fails to prepare and send to the **Contractor** any Substantial Completion estimate required by the provisions herein on or before the date specified, the **City** shall pay to the **Contractor** interest on the amount which would have been due to the **Contractor** pursuant to such Substantial Completion estimate at the rate of three (3) percentage points above the rediscount rate then charged by the Federal Reserve Bank of Boston from such date to the date on which the **City** sends that Substantial Completion estimate to the **Contractor** for acceptance or to the date of payment therefor, whichever occurs first. The **City** shall include the amount of such interest in the Substantial Completion estimate.

14.2.6. (*Reference: M.G.L. c. 30, §39G*). Within fifteen (15) days after the effective date of the declaration of Substantial Completion, the **City** shall send to the **Contractor** by certified mail, return receipt requested, a complete list of all incomplete or unsatisfactory items, and unless delayed by causes beyond its control, the **Contractor** shall complete all such items within forty-five (45) days after the receipt of such list or before the date for final payment and

acceptance, whichever is later. If the **Contractor** fails to complete such Work within such time, the **City** may, subsequent to seven (7) days' written notice to the **Contractor** by certified mail, return receipt requested, terminate the Contract and complete the incomplete or unsatisfactory items and charge the cost of same to the **Contractor**.

14.3. Final Inspection.

14.3.1. Upon written notice from the **Contractor** that the entire Work or an agreed portion thereof is complete, the **Design Professional** will make a final inspection with the **City** and the **Contractor** and will notify the **Contractor** in writing of all particulars which this inspection reveals that the Work is incomplete or defective. The **Contractor** shall immediately take such measures as are necessary to complete such Work or remedy such deficiencies.

ARTICLE 15: GUARANTEES AND WARRANTIES

15.1. In General.

15.1.1. All guarantees and warranties specifically called for by the Specifications shall expressly run to the benefit of the **City**.

15.2. Warranties.

15.2.1. Warranties required by the Contract Documents shall commence on the date of Substantial Completion of the Work or designated portion thereof, unless otherwise provided in the certificate of Substantial Completion.

15.2.2. The **Contractor** warrants that the materials and equipment furnished under the Contract will be new and of recent manufacture unless otherwise specified, and that all Work will be of good quality, free from faults and defects, and in conformance with the Contract Documents. Work not conforming to these requirements, including substitutions not properly approved and authorized, may be considered defective. The **Contractor's** warranty excludes remedy for damage or defect caused by abuse, Modifications not executed by the **Contractor**, improper or insufficient maintenance, improper operation, or normal wear and tear under normal usage. If required by the **Design Professional**, the **Contractor** shall furnish satisfactory evidence as to the kind and quality of material and equipment.

15.2.3. The **Contractor** warrants that title to all Work covered by an application for payment will pass to the **City** either by incorporation in the construction or upon the receipt of payment by the **Contractor**, whichever occurs first, free and clear of all liens. The **Contractor** further agrees that the submission of any application for payment shall conclusively be deemed to waive all liens with respect to said Work to which the **Contractor** may then be entitled, provided that such waiver of the lien rights shall not waive the **Contractor's** right to payment for such Work.

15.2.4. The **Contractor** warrants and guarantees that title to all Work, materials, and equipment covered by any application for payment, whether incorporated in the Project or not, will pass to the **City** no later than the time of payment free and clear of all liens.

15.2.5. No materials or supplies for the Work shall be purchased by the **Contractor** or Subcontractor subject to any chattel mortgage or under a conditional sale contract or other agreement by which an interest is retained by the seller. The **Contractor** warrants that it has good title to all materials and supplies used by it in the Work, free from all liens.

15.2.6. The **Contractor** shall indemnify and hold the **City** harmless from all claims growing out of the lawful demands of Subcontractors, laborers, workers, mechanics, material persons, and furnishers of machinery and parts thereof, equipment, power tools, and all supplies, including commissary, incurred in the furtherance of the performance of this Contract. The **Contractor** shall at the **City's** request, furnish satisfactory evidence that all obligations of the nature hereinabove designated have been paid, discharged, or waived. If the **Contractor** fails to do so, then the **City** may, after having served written notice on the **Contractor** either pay unpaid bills, of which the **City** has written notice, direct, or withhold from the **Contractor's** unpaid compensation a sum of money deemed reasonably sufficient to pay any and all such lawful claims until satisfactory evidence is furnished that all liabilities have been fully discharged whereupon payment to the **Contractor** shall be resumed, in accordance with the terms of this Contract, but in no event shall the provisions of this sentence be construed to impose any obligations on the **City** to either the **Contractor** or its surety. In paying any unpaid bills of the **Contractor**, the **City** shall be deemed the agent of the **Contractor** and any payment so made by the **City** shall be considered as payment made under the Contract by the **City** to the **Contractor** and the **City** shall not be liable to the **Contractor** for any such payment made in good faith.

15.3. Extended Warranties and Guarantees.

15.3.1. Any defective Work that is either corrected or replaced will be warranted and guaranteed for a period of three (3) years from the date of such correction or replacement.

ARTICLE 16: CLAIMS

16.1. In General.

16.1.1. Written Notice. A Claim must be made by written notice to the other party.

16.1.2. Content of Notice. The notice must include all written supporting data.

16.1.3. Burden of Proof. The party making the Claim must substantiate the Claim.

16.2. Time Limits on Claims.

16.2.1. Unless otherwise provided, all Claims must be made within twenty-one (21) days after the occurrence of the event giving rise to such Claim or within twenty-one (21) days after the claimant first recognizes the condition giving rise to the Claim, whichever is later. Any

change or addition to a previously made Claim shall be made by a written notice within the twenty-one-day period in order to be valid.

16.3. Continuing Contract Performance.

16.3.1. Pending final resolution of a Claim including arbitration, unless otherwise agreed in writing, the **Contractor** shall proceed diligently with performance of the Contract and the **City** shall continue to make payments in accordance with the Contract Documents.

16.4. Types of Claims.

16.4.1. Claims for Differing Subsurface or Latent Physical Conditions. (*Reference: M.G.L. c. 30, §39N;*). If, during the progress of the Work, the **Contractor** or the **City** discovers that the actual subsurface or latent physical conditions encountered at the Site differ substantially or materially from those shown on the Plans or indicated in the Contract Documents, either the **Contractor** or the **City** may request an equitable adjustment in the Contract Sum of the Contract applying to Work affected by the differing Site conditions. A request for such an adjustment shall be in writing and shall be delivered by the party making such claim to the other party as soon as possible after such conditions are discovered. Upon receipt of such a claim from a **Contractor**, or upon its own initiative, the **City** shall make an investigation of such physical conditions, and if they differ substantially or materially from those shown on the Plans or indicated in the Contract Documents or from those ordinarily encountered and generally recognized as inherent in Work of the character provided for in the Plans and Contract Documents and are of such a nature as to cause an increase or decrease in the cost of performance of the Work or a change in the construction methods required for the performance of the Work which results in an increase or decrease in the cost of the Work, the **City** shall make an equitable adjustment in the Contract Sum and the Contract shall be modified in writing accordingly.

16.4.2. Claims for Additional Cost. If the **Contractor** claims that any acts or omissions of the **City** or the **Design Professional**, including any instructions or orders, whether oral, written, by drawings, or otherwise, involve extra cost or time, and the **Contractor** has not received a written acknowledgment by the **City** or the **Design Professional** that extra payment will be made or time extended on account thereof, the **Contractor** shall promptly so notify the **Design Professional** in writing of such Claim and shall proceed with the Work relating to such Claim and all rights of both parties with respect to such Claim shall be deemed to have been reserved. No Claim by the **Contractor** on account of such acts, omissions, instructions, or orders shall be valid unless the **Contractor** has so notified the **Design Professional** before proceeding.

16.4.2.1. Under no circumstances shall a Claim be made for additional cost where adverse weather conditions are the basis for the Claim.

16.4.3. Claims for Additional Time. If the **Contractor** wishes to make a Claim for an increase in the Contract Time, written notice as provided herein shall be given. The **Contractor** shall have the burden of demonstrating the effect of the claimed delay on the Contract Time and

shall furnish the **Design Professional** with such documentation relating thereto as the **Design Professional** may reasonably require. Under no circumstances shall the **Contractor** make a Claim for an increase in the Contract Time due to a change in the **Contractor's** early completion date. If the increase in the Contract Time extends beyond the Contract Time established by the **City**, only the time that so extends beyond the Contract Time shall be reviewed and considered. In the case of a continuing delay, only one Claim is necessary.

16.4.3.1. Under no circumstances shall a Claim be made for additional time where adverse weather conditions are the basis for the Claim.

16.4.4. **Claims for Injury to Person or Damage to Property.** Should either party to the Contract suffer injury to person or damage to property because of any error, omission, or act of the other party or of any of the other party's employees or agents or others for whose acts the other party is legally liable, a Claim will be made in writing to the other party within twenty-one (21) days of the occurrence of the act giving rise to the injury or damage.

16.5. Review of Claims.

16.5.1. **Initial Referral.** All Claims, the bases of which arise prior to final payment or the earlier termination of the Contract, shall be referred initially to the **Design Professional** for action as provided herein.

16.5.2. **Time Period and Action.** The **Design Professional** shall review Claims and shall do one of the following within fourteen (14) days of receipt of the Claim:

16.5.2.1. defer any action with respect to all or any part of a Claim for the purpose of requesting and receiving additional information from either party;

16.5.2.2. decline in writing to render a decision for any reason which it deems appropriate (including, but not limited to, the fact that the Claim involves allegations of fault on the part of the **Design Professional**); or

16.5.2.3. render a decision on all or a part of the Claim.

16.5.3. If the **Design Professional** requests additional information, the **Design Professional** shall take action with respect to the Claim no later than fourteen (14) days after receipt of the additional information. The **Design Professional** shall notify the parties in writing of its disposition of such Claim. If the **Design Professional** renders a decision or declines to render a decision, either party may proceed in accordance with paragraph 16.7.

16.6. Decisions.

16.6.1. **Decisions by the City or the Design Professional.** (Reference: M.G.L. c. 30, §39P;). In every case in which this Contract requires the **City**, any official, or its **Design Professional** to make a decision on interpretation of the Specifications, approval of equipment, material or any other approval, or progress of the Work, the decision shall be made promptly

and, in any event, no later than fourteen (14) days after the written submission for decision; but if such decision requires extended investigation and study, the **City**, the official, or the **Design Professional** shall, within fourteen (14) days after the receipt of the submission, give the party making the submission written notice of the reasons why the decision cannot be made within the thirty-day period and the date by which the decision will be made.

16.6.2. When Decision of the Design Professional is Final and Binding. The decision of the **Design Professional** shall be final and binding on the parties, unless a party files suit or a demand for arbitration within thirty (30) days after the date of the decision.

16.6.3. When Decision of the Design Professional is Not Final and Binding. (*Reference: M.G.L. c. 30, §39J*). Notwithstanding any contrary provision of this Contract, no decision by the **City** or by the **Design Professional** on a dispute, whether of fact or of law, arising under said Contract shall be final or conclusive if such decision is made in bad faith, fraudulently, capriciously, arbitrarily, is unsupported by substantial evidence, or is based upon error of law.

16.6.4. Resolved Claims. If a Claim is resolved, the **Design Professional** shall obtain or prepare the appropriate documentation and provide the **City** and the **Contractor** with a copy of same.

16.7. Arbitration.

16.7.1. Controversies and Claims Subject to Arbitration. Any controversy or Claim arising out of or related to the Contract, or the breach thereof, shall be settled by arbitration in accordance with the Construction Industry Arbitration Rules of the American Arbitration Association, and judgment upon the award rendered by the arbitrator or arbitrators may be entered in any court having jurisdiction thereof, except controversies or Claims relating to aesthetic effect, subject to the provisions of paragraph 16.7.7. In any such arbitration in which the amount stated in the demand is \$100,000 or less, the American Arbitration Association shall appoint a single arbitrator in accordance with such Rules, who shall be a lawyer. In any such arbitration in which the amount stated in the demand is in excess of \$100,000, the demand shall include the name of an arbitrator appointed by the claimant. The respondent shall appoint a second arbitrator and shall notify the claimant in writing of such appointment within thirty (30) days of receipt of the demand, failing which the matter shall be decided by the arbitrator named in the claimant's demand. Within thirty (30) days after the claimant's receipt of notice of the appointment of the second arbitrator, the two arbitrators shall appoint a neutral arbitrator and shall notify the parties in writing of such appointment, failing which either party may apply to the American Arbitration Association to appoint such neutral arbitrator. If such neutral arbitrator is appointed by the American Arbitration Association, he or she shall be a lawyer.

16.7.2. Rules for Arbitration. If the neutral arbitrator is appointed by the American Arbitration Association, the said Association shall administer the arbitration and its Construction Industry Arbitration Rules shall govern all aspects of the proceeding including the enforcement of any award. If the neutral arbitrator is not appointed by the American Arbitration Association, then the panel of arbitrators shall act as the administrator of the arbitration but the Construction

Industry Arbitration Rules of the Association shall nonetheless govern all aspects of the proceeding, including the enforcement of any award, provided however that the arbitration panel shall have all of the powers and duties conferred on the Association pursuant to said rules. In addition, the following rules shall govern the selection of arbitrators and the proceedings:

16.7.2.1. Neither party may appoint as arbitrator an employee or an owner of that party, nor the parent, spouse, or child of an employee or owner of that party.

16.7.2.2. After the neutral arbitrator has been appointed, neither party may engage in *ex parte* communication with any arbitrator.

16.7.3. When Arbitration May Be Demanded. Demand for arbitration of any Claim, the basis of which arises prior to final payment or the earlier termination of the Contract may not be made before the earlier of (1) the date on which the **Design Professional** has rendered a written decision on the Claim or has notified the parties in writing that such decision will not be rendered or (2) forty-five (45) days following receipt by the **Design Professional** of a written request for a decision sent by registered or certified mail to both the **Design Professional** and the other party to this Contract.

16.7.3.1. In no event shall a demand for arbitration be made after the date when the institution of legal or equitable proceedings based on such Claim would be barred by the applicable statute of limitations.

16.7.4. Limitation on Consolidation or Joinder. No arbitration arising out of or relating to the Contract Documents shall include, by consolidation or joinder or in any other manner, the **Design Professional**, the **Design Professional's** employees or consultants, except by written consent containing specific reference to the Contract and signed by the **Design Professional**, the **City**, the **Contractor**, and any other person or entity sought to be joined. No arbitration shall include, by consolidation or joinder or in any other manner, parties other than the **City**, the **Contractor**, a separate contractor, and other persons substantially involved in a common question of fact or law whose presence is required if complete relief is to be accorded in arbitration. No person or entity other than the **City**, the **Contractor**, or a separate contractor shall be included as an original third party or additional third party to an arbitration whose interest or responsibility is insubstantial. Consent to arbitration involving an additional person or entity shall not constitute consent to arbitration of a dispute not described therein or with a person or entity so named or described herein. The foregoing agreement to arbitrate and other agreements to arbitrate with an additional person or entity duly consented to by parties to the Contract shall be specifically enforceable under applicable law in any court having jurisdiction thereof.

16.7.5. Claims and Timely Assertion of Claims. A party who files a notice of demand for arbitration must assert in the demand all Claims then known to that party on which arbitration is permitted to be demanded. When a party fails to include a Claim through oversight, inadvertence, or excusable neglect, or when a Claim has matured or been acquired subsequently, the arbitrator or arbitrators may permit amendment.

16.7.6. Award Final. The award rendered by the arbitrator or arbitrators shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof.

16.7.7. The City's Reservation of Rights. Notwithstanding any provision contained in this Article 16 or elsewhere in the Contract Documents, the **City** reserves the following rights in connection with Claims between the **City** and the **Contractor**, which rights may be exercised by the **City** unilaterally, in the **City's** sole discretion, and without the consent of the **Contractor**:

16.7.7.1. the right to institute legal action against the **Contractor** in any court of competent jurisdiction in lieu of demanding arbitration, in which case the dispute or disputes which are the subject of such action shall be decided by such court, and not by arbitration;

16.7.7.2. the right to obtain from any court of competent jurisdiction a stay of any arbitration instituted by the **Contractor**, provided that the application for such stay is made before the appointment of the neutral arbitrator in such arbitration, in which case the dispute or disputes which are the subject of such arbitration shall be decided by such court and not by arbitration;

16.7.7.3. the right to require the **Contractor** to join as a party in any arbitration between the **City** and the **Design Professional** relating to the Project, in which case the **Contractor** agrees to be bound by the decision of the arbitrator or arbitrators in such arbitration.

16.7.8. In case the **City** elects to proceed in accordance with 16.7.7.1. or 16.7.7.2. above, the word "litigation" shall be deemed to replace the word "arbitration" wherever the latter word appears in the Contract Documents.

ARTICLE 17: EMERGENCIES

17.1. In an emergency affecting the health and safety of persons or property, the **Contractor** shall act to prevent threatened damage, injury, or loss.

17.2. In emergencies affecting the health, safety, or protection of persons, the Work or property at the Site or adjacent thereto, the **Contractor**, without special instruction or authorization from the **City** or the **Design Professional**, is obligated to act to prevent threatened damage, injury, or loss. The **Contractor** shall give the **Design Professional** prompt written notice if the **Contractor** believes that any significant changes in the Work or variations from the Contract Documents have been caused thereby. If the **Design Professional** determines that a change in the Contract Documents is required because of the action taken by the **Contractor** in response to such an emergency, a **Construction Change Directive** or **Change Order** will be issued to document the consequences of such action.

ARTICLE 18: TERMINATION OR SUSPENSION OF THE CONTRACT

18.1. Suspension by the City.

18.1.1. At any time and without cause, the **City** may suspend the Work or any portion thereof for a period of not more than ninety (90) days by notice in writing to the **Contractor** and the **Design Professional** that will fix the date on which Work will be resumed. The **Contractor** shall resume Work on the date so fixed. The **Contractor** shall be allowed an adjustment in the Contract Sum or an extension of the Contract Time, or both, directly attributable to any such suspension if the **Contractor** makes an approved Claim therefor.

18.1.2. If the Work is defective, if the **Contractor** fails to provide a sufficient number of skilled workers or suitable materials or equipment, or if the **Contractor** defaults or neglects to carry out the Work in accordance with the Contract Documents and fails within a seven-day period after receipt of written notice from the **City** to begin and prosecute correction of such default or neglect with diligence and promptness, the **City** may correct such deficiencies, without prejudice to other remedies the **City** may have. In such case, an appropriate **Construction Change Directive** shall be issued deducting from payments then or thereafter due to the **Contractor** the cost of correcting such deficiencies including compensation for the **Design Professional's** additional services and expenses made necessary by such default, neglect, or failure and any and all direct, indirect, or consequential costs associated with the order to stop the Work. If such payments then or thereafter due the **Contractor** are not sufficient to cover such amounts, the **Contractor** shall immediately pay the difference to the **City**. The **Contractor** shall remain responsible for maintaining progress and shall not be entitled to any increase in the Contract Time or the Contract Sum.

18.2. Termination by the Contractor.

18.2.1. If, through no act or fault of the **Contractor**, a Subcontractor, or a Sub-subcontractor, the Work is suspended for a period of more than ninety (90) days by the **City**, or under an order of court or other public authority, or the **Design Professional** fails to act on any application for payment within thirty (30) days after it is submitted in proper form and content or the **City** fails for thirty (30) days to pay the **Contractor** any sum finally determined to be due, then the **Contractor** may terminate the Contract upon seven (7) days' written notice to the **City**, provided that the **City** does not remedy such suspension or failure within that time.

18.3. Termination by the City.

18.3.1. If the **Contractor** is adjudged a bankrupt, or if the **Contractor** makes a general assignment for the benefit of the **Contractor's** creditors, or if a receiver is appointed on account of the **Contractor's** insolvency, or if the **Contractor** persistently or repeatedly refuses or fails, except in cases for which extension of time is provided, to supply enough properly skilled workers or proper materials, or if the **Contractor** fails to make prompt payment to Subcontractors or for materials or labor, or persistently disregards laws, ordinances, rules, regulations, or orders of any public authority having jurisdiction or disregards an instruction, order, or decision of the **Design Professional**, or otherwise is guilty of substantial violation of

any provision of the Contract, then the **Contractor** shall be in default, and the **City** may, without prejudice to any other right or remedy and upon written notice to the **Contractor**, take possession of all materials, tools, appliances, equipment, construction equipment and machinery and vehicles, offices and other facilities on the Project Site, and all materials intended for the Work, wherever stored, and, seven (7) days after such notice, may terminate the employment of the **Contractor**, accept assignment of any or all subcontracts pursuant to Paragraph __, and finish the Work by whatever method the **City** may deem expedient. The **City** shall be entitled to collect from the **Contractor** all direct, indirect, and consequential damages suffered by the **City** on account of the **Contractor's** default, including without limitation additional services and expenses of the **Design Professional** made necessary thereby. The **City** shall be entitled to hold all amounts due to the **Contractor** at the date of termination until all of the **City's** damages have been established, and to apply such amounts to such damages.

18.3.2. (*Reference:* Somerville Municipal Code Chapter 2.117, Section 2.117.110C). In the event the **Contractor** or any of its agents or employees violates any provision of Somerville Municipal Code Chapter 2.117 that is applicable to **City** contractors in connection with the awarding, administration, or performance of the Contract, the **City** may terminate the Contract.

ARTICLE 19: AMERICANS WITH DISABILITIES ACT; (42 U.S. 12131)

19.1. On July 26, 1994, the Americans with Disabilities Act ("the Act") became effective for employers of fifteen or more employees.

19.2. The Act protects against discrimination on the basis of "disability," which is defined as a physical or mental impairment that substantially limits at least one "major life activity;" or discrimination against an individual who has a record of such impairment; or discrimination against an individual being regarded - even if inaccurately - as having such impairment. The Act also expressly prohibits job discrimination that is based on any individual's relationship or association with a disabled person.

19.3. If the **Contractor** is subject to the Act, it must comply with its provisions.

ARTICLE 20: WRITTEN NOTICE TO THE PARTIES

20.1. In General.

20.1.1. All written communications from the **Design Professional** to the **Contractor** shall be copied to the **City**. All written communications from the **Contractor** to the **Design Professional** shall be copied to the **City**. All written communications from the **Contractor** to the **City** shall be copied to the **Design Professional**.

20.2. Addresses.

20.2.1. To the City. Written notice to the **City** shall be sent or hand-delivered to:

Purchasing Director
Purchasing Department
City of Somerville
93 Highland Avenue
Somerville, MA 02143

City Solicitor
Law Department
93 Highland Avenue
Somerville, MA 02143

Director of Office of Strategic Planning & Community Development
City of Somerville
93 Highland Avenue
Somerville, MA 02143

20.2.2. To the Contractor. Both the address given on the bid form upon which the Agreement is founded and the **Contractor's** office at or near the Site of the Work are hereby designated as places to either of which notices, letters, and other communications to the **Contractor** shall be certified, mailed, or delivered. Delivery of any notice, letter, or other communication to the **Contractor** at or depositing same in a postpaid wrapper directed to either place shall be deemed sufficient service thereof upon the **Contractor**. Written notice shall be deemed to have been duly served on the **Contractor** if it is sent or hand-delivered to any member or officer of the **Contractor**. The date of said service shall be the date of such delivery or mailing. The address may be changed at any time by an instrument in writing, executed and acknowledged by the **Contractor** and delivered to the **City** and to the **Design Professional**. Nothing herein contained shall be deemed to preclude or render inoperative the service of any notice, letter, or other communication upon the **Contractor** personally. Moreover, any notice, letter, or other communication required under the Contract may be served on the **Contractor's** representative at job meetings. The **Contractor** shall provide the **City** with its change of address seven (7) days prior to its effective date.

20.2.3. To the Design Professional. Written notice to the **Design Professional** shall be sent or hand-delivered to the address appearing on the Project Manual. Written notice shall be deemed to have been duly served on the **Design Professional** if it is sent or hand-delivered to any member or officer of the **Design Professional**.

ARTICLE 21: MISCELLANEOUS PROVISIONS

21.1. Governing Law.

21.1.1. This Contract shall be governed by the laws of the Commonwealth of Massachusetts.

21.2. Venue.

21.2.1. Venue for any court action or proceeding shall be Middlesex County in the Commonwealth of Massachusetts only. The **Contractor**, all Subcontractors, and Suppliers waive any and all jurisdictional and venue defenses.

21.3. Successors and Assigns.

21.3.1. The **Contractor** shall not assign, in whole or in part, its rights and obligations under the Contract Documents without prior written consent of the **City**. An assignment without the prior written consent of the **City** shall not relieve the **Contractor** of its obligations thereunder.

21.3.2. The **City** and the **Contractor** respectively bind themselves, their partners, successors, assigns, and legal representatives to the other party hereto and to partners, successors, assigns, and legal representatives of such other party in respect to covenants, agreements, and obligations contained in the Contract Documents.

21.4. Statutory Limitation Period.

21.4.1. It is expressly agreed that the obligations of the **Contractor** hereunder arise out of contractual duties, and that the failure of the **Contractor** to comply with the requirements of the Contract Documents shall constitute a breach of contract, not a tort, for the purpose of applicable statutes of limitations and repose. Any cause of action which the **City** may have on account of such failure shall be deemed to accrue only when the **City** has obtained actual knowledge of such failure, not before.

21.5. Rights and Remedies.

21.5.1. Duties and obligations imposed by the Contract Documents and rights and remedies available thereunder shall be in addition to and not a limitation of duties, obligations, rights, and remedies otherwise imposed or available by law.

21.5.2. No action or failure to act by the **City**, the **Design Professional**, or the **Contractor** shall constitute a waiver of a right or duty afforded them under the Contract, nor shall such action or failure to act constitute approval of or acquiescence in a breach thereunder, except as may be specifically agreed in writing.

THIS IS THE END OF THE GENERAL TERMS AND CONDITIONS

APPENDIX D
INSURANCE REQUIREMENTS

**APPENDIX D - INSURANCE REQUIREMENTS
INSURANCE SPECIFICATIONS**

INSURANCE REQUIREMENTS FOR AWARDED VENDOR ONLY:

Prior to commencing performance of any work or supplying materials or equipment covered by these specifications, the contractor shall furnish to the Office of the Purchasing Director a Certificate of Insurance evidencing the following:

A. GENERAL LIABILITY - Comprehensive Form

Bodily Injury Liability.....\$ One Million
Property Damage Liability.....\$ One Million

**B. COVERAGE FOR PAYMENT OF WORKER'S COMPENSATION
BENEFIT PURSUANT TO CHAPTER 152 OF THE MASSACHUSETTS
GENERAL LAWS IN THE AMOUNT AS LISTED BELOW:**

WORKER'S COMPENSATION.....\$ Statutory
EMPLOYERS' LIABILITY.....\$ Statutory

C. AUTOMOBILE LIABILITY INSURANCE AS LISTED BELOW:

BODILY INJURY LIABILITY.....\$ STATUTORY

1. A contract will not be executed unless a certificate (s) of insurance evidencing above-described coverage is attached.
2. Failure to have the above-described coverage in effect during the entire period of the contract shall be deemed to be a breach of the contract.
3. All applicable insurance policies shall read:
"CITY OF SOMERVILLE" as a certificate holder and as an additional insured for general liability only along with a description of operation in the space provided on the certificate.
4. Please comply with our requirement of a **ninety (90) day** notice of cancellation and note on certificate.

Certificate Should Be Made Out To:
City Of Somerville
Purchasing Department
93 Highland Avenue
Somerville, Ma. 02143

Note: If your insurance expires during the life of this contract, you shall be responsible to submit a new certificate(s) covering the period of the contract. No payment will be made on a contract with an expired insurance certificate.

ACORD CERTIFICATE OF LIABILITY INSURANCE

OP ID BF
SEQUO-1DATE (MM/DD/YYYY)
03/20/09

PRODUCER DeSanctis Insurance Agcy, Inc. 36 Cummings Park Woburn MA 01801 Phone: 781-935-8480 Fax: 781-933-5645		THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.	
INSURED Sequoia Construction, Inc. 10 Buckley Avenue, Unit 9 Whitman MA 02382		INSURERS AFFORDING COVERAGE	NAIC #
		INSURER A Acadia Insurance Company	
		INSURER B	
		INSURER C	
		INSURER D	
		INSURER E	

COVERAGES

THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

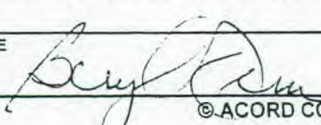
INSR ADD'L LTR INSRD	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS		
A	GENERAL LIABILITY	CPA010928415	03/09/09	03/09/10	EACH OCCURRENCE	\$ 1,000,000	
	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY				DAMAGE TO RENTED PREMISES (Ea occurrence)	\$ 250,000	
	<input type="checkbox"/> CLAIMS MADE <input checked="" type="checkbox"/> OCCUR				MED EXP (Any one person)	\$ 5,000	
	<input checked="" type="checkbox"/> XCU Hazards				PERSONAL & ADV INJURY	\$ 1,000,000	
	<input checked="" type="checkbox"/> Contractual Liab.				GENERAL AGGREGATE	\$ 2,000,000	
	GEN'L AGGREGATE LIMIT APPLIES PER:				PRODUCTS - COM/OP AGG	\$ 1,000,000	
	<input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC						
A	AUTOMOBILE LIABILITY	MAA010928815	03/09/09	03/09/10	COMBINED SINGLE LIMIT (Ea accident)	\$ 1,000,000	
	<input type="checkbox"/> ANY AUTO				BODILY INJURY (Per person)	\$	
	<input type="checkbox"/> ALL OWNED AUTOS				BODILY INJURY (Per accident)	\$	
	<input checked="" type="checkbox"/> SCHEDULED AUTOS				PROPERTY DAMAGE (Per accident)	\$	
<input checked="" type="checkbox"/> HIRED AUTOS							
<input checked="" type="checkbox"/> NON-OWNED AUTOS							
	GARAGE LIABILITY				AUTO ONLY - EA ACCIDENT	\$	
	<input type="checkbox"/> ANY AUTO				OTHER THAN EA ACC	\$	
					AUTO ONLY - AGG	\$	
A	EXCESS/UMBRELLA LIABILITY	CUA010929015	03/09/09	03/09/10	EACH OCCURRENCE	\$ 2,000,000	
	<input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS MADE				AGGREGATE	\$ 2,000,000	
	<input type="checkbox"/> DEDUCTIBLE					\$	
	<input checked="" type="checkbox"/> RETENTION \$ NONE					\$	
						\$	
A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY	WCA010928915 MA	03/09/09	03/09/10	<input checked="" type="checkbox"/> WC STATU-TORY LIMITS <input type="checkbox"/> OTH-ER		
	E.L. EACH ACCIDENT				\$ 1,000,000		
	E.L. DISEASE - EA EMPLOYEE				\$ 1,000,000		
	E.L. DISEASE - POLICY LIMIT				\$ 1,000,000		
	OTHER						

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES / EXCLUSIONS ADDED BY ENDORSEMENT / SPECIAL PROVISIONS

Additional Insured Limits are no greater than required by written contract
City of Somerville, MA is additional insured as respects GL Policy. Project:
4 Locations - ADA Ramps

CERTIFICATE HOLDER

CANCELLATION

CITY OF SOMERVILLE Purchasing Dept 93 Highland Avenue Somerville MA 02143	SOMER-1	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL 30 90 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO DO SO SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES.
		AUTHORIZED REPRESENTATIVE 

APPENDIX E
WAGE RATES AND LIVING WAGE FORM

DAVIS BACON WAGE RATES

INSERT MANUALLY

GENERAL DECISION: MA20080013 01/02/2009 MA13

Date: January 2, 2009

General Decision Number: MA20080013 01/02/2009

Superseded General Decision Number: MA20070018

State: Massachusetts

Construction Types: Heavy (Heavy and Marine)

Counties: Barnstable, Bristol, Dukes, Essex, Middlesex, Nantucket, Norfolk, Plymouth and Suffolk Counties in Massachusetts.

HEAVY AND MARINE CONTRUCTION PROJECTS

Modification Number	Publication Date
0	02/08/2008
1	02/15/2008
2	03/07/2008
3	03/21/2008
4	04/04/2008
5	05/09/2008
6	06/06/2008
7	06/20/2008
8	06/27/2008
9	07/04/2008
10	07/18/2008
11	08/08/2008
12	08/15/2008
13	08/22/2008
14	09/05/2008
15	09/26/2008
16	10/03/2008
17	10/10/2008
18	11/14/2008
19	11/28/2008
20	12/26/2008
21	01/02/2009

BOIL0029-001 10/01/2008

	Rates	Fringes
BOILERMAKER.....	\$ 34.54	35%+8.96

BRMA0001-011 09/01/2008

FOXBORO CHAPTER

BRISTOL (Attleboro, Berkley, Dighton, Mansfield, North Attleboro, Norton, Raynham, Rehoboth, Seekonk, Taunton); NORFOLK, (Bellingham, Canton, Dedham, Foxboro, Franklin, Norfolk, Norwood, Plainville, Sharon, Walpole, Westrwood, Wrentham); and PLYMOUTH (Lakeville)

	Rates	Fringes
Bricklayer/Cement Mason.....	\$ 42.54	22.29

BRMA0001-012 09/01/2008

LOWELL CHAPTER

MIDDLESEX (Acton, Ashby, Ayer, Bedford, Billerica, Boxboro, Carlisle, Chemsford, Dracut, Dunstabale, Ft Devens, Groton, Littleton, Lowell, North Acton, Pepperell, Shirley, South Acton, Tewksbury, Townsend, Tyngsboro, West Acton, Westford, Wilmington)

	Rates	Fringes
BRICKLAYER.....	\$ 42.54	22.29

BRMA0001-013 09/01/2008

LOWELL CHAPTER

MIDDLESEX (Ashland, Framingham, Holliston, Hopkinton, Hudson, Maynard, Natick, Sherborn, Stow); and NORFOLK (Medfield, Medway, Millis)

	Rates	Fringes
BRICKLAYER.....	\$ 42.54	22.29

BRMA0003-001 08/01/2008

	Rates	Fringes
Marble & Tile Finisher.....	\$ 33.88	20.41
Marble, Tile & Terrazzo		
Workers.....	\$ 43.58	21.31
TERRAZZO FINISHER.....	\$ 42.58	21.14

BRMA0003-003 08/01/2008

BOSTON CHAPTER

MIDDLESEX (Arlington, Cambridge, Everett, Malden, Medford, Melrose, Somerville); NORFOLK (Brookline, Milton); and SUFFOLK

	Rates	Fringes
BRICKLAYER.....	\$ 43.54	21.36

BRMA0003-011 08/01/2008

LYNN CHAPTER

ESSEX (Amesbury, Andover, Beverly, Boxford, Danvers, Essex, Georgetown, Gloucester, Groveland, Hamilton, Haverhill, Ipswich, Lawrence, Lynn, Lynnfield, Manchester, Marblehead, Merrimac, Methuen, Middleton, Nahant, Newbury, Newburyport, North Andover, Peabody, Rockport, Rowley, Salisbury, Salem, Saugus, Swampscott, Topsfield, Wakefield, Wenham, West Newbury); and MIDDLESEX (North Reading, Reading, Wakefield)

	Rates	Fringes
Bricklayer/Cement Mason.....	\$ 43.54	21.36

BRMA0003-012 08/01/2008

	Rates	Fringes
--	-------	---------

BRICKLAYER

WALTHAM CHAPTER -
 MIDDLESEX (Belmont,
 Burlington, Concord,
 Lexington, Lincoln,
 Stoneham, Sudbury,
 Waltham, Watertown,
 Wayland, Weston,
 Winchester, Woburn).....\$ 43.54 21.36

 BRMA0003-014 08/01/2008

QUINCY CHAPTER

PLYMOUTH COUNTY (Abington, Bridgewater, Brockton, Carver,
 Duxbury, East Bridgewater, Halifax, Hanover, Hanson, Hingham,
 Hull, Kingston, Marshfield, Middleboro, Norwell, Pembroke,
 Plymouth, Rockland, Scituate, West Bridgewater, Whitman)

	Rates	Fringes
Bricklayer/Cement Mason.....	\$ 43.54	21.36

 BRMA0003-025 08/01/2008

NEW BEDFORD CHAPTER

BARNSTABLE; BRISTOL (Acushnet, Darmouth, Fairhaven, Fall River,
 Freetown, New Bedford, Somerset, Swansea, Westport); DUKES;
 NANTUCKET; PLYMOUTH (Marion, Mattapoissett, Rochester, Wareham)

	Rates	Fringes
Bricklayer/Cement Mason.....	\$ 43.54	21.36

 BRMA0032-001 02/01/2005

MIDDLESEX (Newton) AND NORFOLK (Dover, Needham, Wellesley)
 COUNTIES

	Rates	Fringes
Bricklayer/Cement Mason.....	\$ 36.01	17.94

 CARP0026-003 09/01/2008

BRISTOL (Attleborough, North Attleborough); ESSEX; MIDDLESEX
 (Except Belmont, Cambridge, Everett, Malden, Medford,
 Somerville); AND NORFOLK (Bellingham, Braintree, Canton,
 Cohasset, Foxboro, Franklin, Medfield, Medway, Millis,
 Needham, Norfolk, Norwood, Plainville, Quincy, Sharon, Walpole,
 Wellesley, Westwood, Weymouth, Wrentham) COUNTIES

	Rates	Fringes
CARPENTER.....	\$ 31.08	20.69

 CARP0033-003 09/01/2008

MIDDLESEX (Belmont, Cambridge, Everett, Malden, Medford,
 Somerville); NORFOLK (Brookline, Dedham, Milton); AND SUFFOLK
 COUNTIES

	Rates	Fringes
CARPENTER.....	\$ 36.48	20.94

CARP0056-001 09/01/2007		

All of SUFFOLK COUNTY; and those areas of BARNSTABLE, BRISTOL, ESSEX, MIDDLESEX, NORFOLK, and PLYMOUTH COUNTIES situated INSIDE Boston Beltway (I-495) and North of Cape Cod Canal

	Rates	Fringes
Piledrivermen & Diver's Tender...	\$ 34.82	21.94

CARP0056-002 09/01/2007		

DUKES and NANTUCKET COUNTIES; and those areas of BARNSTABLE, BRISTOL, PLYMOUTH, and NORFOLK COUNTIES situated OUTSIDE Boston Beltway (I-495) and South of Cape Cod Canal

	Rates	Fringes
Piledrivermen & Diver's Tender...	\$ 34.82	21.94

CARP0056-003 09/01/2007		

Those areas of ESSEX and MIDDLESEX COUNTIES situated OUTSIDE Boston Beltway (I-495)

	Rates	Fringes
Piledrivermen & Diver's Tender...	\$ 34.82	21.94

CARP0056-004 09/01/2007		

	Rates	Fringes
Diver.....	\$ 48.75	21.94

CARP0424-001 09/01/2008		

NORFOLK (Braintree, Quincy, Cohasset, Weymouth, etc.) PLYMOUTH (Duxbury, Hanover, Hull, Hingham, Marshfield, Norwell, Pembroke Rockland, Scituate)

	Rates	Fringes
CARPENTER.....	\$ 31.08	20.69

CARP0624-002 09/01/2008		

BARNSTABLE; BRISTOL (Except Attleboro & North Attleboro); DUKES; NANTUCKET; NORFOLK (Avon, Holbrook, Randolph, Stoughton); PLYMOUTH (Bridgewater, Kingston, Lakeville, Middleboro, Plymouth, S. Hanover, Whitman)

	Rates	Fringes
CARPENTER.....	\$ 31.08	20.69

CARP1121-001 03/01/2007		

	Rates	Fringes
--	-------	---------

MILLWRIGHT.....\$ 30.52 19.83

ELEC0096-001 06/01/2008

MIDDLESEX (Ashby, Ashland, Ayer, Ft. Devens, Groton, Hopkinton, Hudson, Marlboro, Pepperell, Shirley, Stow, Townsend)

	Rates	Fringes
ELECTRICIAN.....	\$ 33.88	17.30
Teledata System Installer.....	\$ 24.91	14.25

ELEC0099-001 06/01/2008

BRISTOL (Attleboro, North Attleboro, Seekonk)

	Rates	Fringes
ELECTRICIAN.....	\$ 34.08	47.41%
Teledata System Installer.....	\$ 25.56	11.14

ELEC0103-002 09/01/2008

ESSEX (Amesbury, Andover, Boxford, Georgetown, Groveland, Haverhill, Lawrence, Merrimac, Methuen, Newbury, Newburyport, North Andover, Rowley, Salisbury, West Newbury); MIDDLESEX (Bedford, Billerica, Boxboro, Burlington, Carlisle, Chelmsford, Dracut, Dunstable, Littleton, Lowell, North Reading, Tewksbury, Tyngsboro, Westford, Wilmington)

	Rates	Fringes
ELECTRICIAN.....	\$ 40.73	22.52

ELEC0103-004 09/01/2008

ESSEX (Beverly, Danvers, Essex, Gloucester, Hamilton, Ipswich, Manchester, Marblehead, Middleton, Peabody, Rockport, Salem, Topsfield, Wenham)

	Rates	Fringes
ELECTRICIAN.....	\$ 40.73	22.52

ELEC0103-005 09/01/2008

ESSEX (Lynn, Lynnfield, Nahant, Saugus, Swampscott); MIDDLESEX (Acton, Arlington, Belmont, Cambridge, Concord, Everett, Framingham, Holliston, Lexington, Lincoln, Malden, Maynard, Medford, Melrose, Natick, Newton, Reading, Sherborn, Somerville, Stoneham, Sudbury, Wakefield, Waltham, Watertown, Wayland, Weston, Winchester, Woburn); NORFOLK (Bellingham, Braintree, Brookline, Canton, Cohasset, Dedham, Dover, Foxboro, Franklino, Medfield, Medway, Millis, Milton, Needham, Norfolk, Norwood, Quincy, Sharon, Walpole, Wellesley, Westwood, Weymouth, Wrentham); PLYMOUTH (Hingham and Hull); SUFFOLK

	Rates	Fringes
ELECTRICIAN.....	\$ 40.73	22.52

ELEC0104-001 09/03/2006

	Rates	Fringes
Line Construction:		
Cableman.....	\$ 30.51	7.64+A
Equipment Operator.....	\$ 30.51	11.64+A
Groundman.....	\$ 19.74	7.64+A
Lineman.....	\$ 35.89	12.64+A

A. PAID HOLIDAYS: New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Christmas Day and Columbus Day, provided the employee has been employed 5 working days prior to any one of the listed holidays.

ELEC0223-002 09/01/2008

BARNSTABLE, BRISTOL (Except Attleboro, North Attleboro, Seekonk); DUKES; NANTUCKET; PLYMOUTH (Except Hingham and Hull Twp); NORFOLK (Avon, Halbrook, Randolph, Sloughton)

	Rates	Fringes
ELECTRICIAN.....	\$ 33.80	16.17

ENGI0004-009 12/01/2008

	Rates	Fringes
Power equipment operators:		
Group 1.....	\$ 36.86	20.23+A
Group 2.....	\$ 36.54	20.23+A
Group 3.....	\$ 26.81	20.23+A
Group 4.....	\$ 31.39	20.23+A
Group 5.....	\$ 21.00	20.23+A
Group 6.....	\$ 23.82	20.23+A

HOURLY PREMIUM FOR BOOM LENGTHS (Including Jib):

Over 150 ft.	+1.95
Over 185 ft.	+3.42
Over 210 ft.	+4.80
Over 250 ft.	+7.28
Over 295 ft.	+10.08
Over 350 ft.	+11.73

FOOTNOTE FOR POWER EQUIPMENT OPERATORS:

A. PAID HOLIDAYS: New Year's Day, Washington's Birthday, Labor Day, Memorial Day, Independence Day, Patriot's Day, Columbus Day, Veteran's Day, Thanksgiving Day, Christmas Day

POWER EQUIPMENT OPERATORS CLASSIFICATIONS [HEAVY CONSTRUCTION]

GROUP 1: Power shovel; crane; truck crane; derrick; pile driver; trenching machine; mechanical hoist pavement breaker; cement concrete paver; dragline; hoisting engine; three drum machine; pumpcrete machine; loaders; shovel dozer; front end loader; mucking machine; shaft hoist; steam engine; backhoe; gradall; cable way; fork lift; cherry picker; boring machine; rotary drill; post hole hammer; post hole digger; asphalt plant on job site; concrete batching and/or mixing plant on job site; crusher plant on job site; paving concrete mixer; timber jack

GROUP 2: Sonic or vibratory hammer; grader; scraper; tandem scraper; bulldozer; tractor; mechanic - maintenance; York rake; mulching machine; paving screed machine; stationary steam boiler; paving concrete finishing machine; grout pump; portable steam boiler; portable steam generator; roller; spreader; asphalt paver; locomotives or machines used in place thereof; tamper (self propelled or tractor-draw); cal tracks; ballast regulator; rail anchor machine; switch tamper; tire truck

GROUP 3: Pumps (1-3 grouped); compressor; welding machines (1-3 grouped); generator; sighting plant; heaters (power driven, 1- 5); syphon-pulsometer; concrete mixer; valves controlling permanent plant air steam, conveyor, wellpoint system (operating)

GROUP 4: Assitant engineer (fireman)

GROUP 5: Oiler (other than truck cranes and gradalls)

GROUP 6: Oiler (on truck cranes and gradalls)

POWER EQUIPMENT OPERATORS CASSIFICATIONS [MARINE
CONSTRUCTION]

Group 1: Shovel; crane; truck crane; cherry picker; derrick; pile driver; two or more drum machines; lighters; derrick boats; trenching machines; mechanic hoist pavement breakers; cement concrete pavers; draglines; hoisting engines; pumpcrete machines; elevating graders; shovel dozer; front end loader; backhoe; gradall; cable ways; boring machine; rotary drill; post hole hammer; post hole digger; fork lift; timber jack; asphalt plant (on site); concrete batching and/or mixing plant (on site); crusher plant (on site); paving concrete mixer

Group 2: Portable steam boiler; portable steam generator; sonic or vibratory hammer; grader; scraper; tandem scraper; concrete pump; bulldozer; tractor; York rake; mulching machine; roller; spreader; tamper (self-propelled or tractor-drawn); asphalt paver; concrete mixer with side loader; mechanic - maintenance; cal tracks; ballast regulator; switch tamper; rail anchor machine; tire truck

Group 3: Pumps (1-3 grouped); comressor; welding machines (1-3 grouped); generator; lighting plant; heaters (power driven 1-5); syphon-pulsometer; concrete mixer; valves controlling permanent plant air or steam; conveyor; well point systems; auger (powered by independent engines and attached to pile drivers); hydraulic saws

Group 4: Fireman

Group 5: Assistant engineer (other than truck crane and gradall)

Group 6: Assistant engineer (on truck crane and gradall)

IRON0007-001 09/16/2008

Rates

Fringes

IRONWORKER

BRISTOL (Easton); ESSEX
 (Beverly, Gloucester, Lynn,
 Lynnfield,
 Manchester, Marblehead,
 Nahant, Salem, Saugus,
 Swampscott); MIDDLESEX
 (Arlington, Bedford,
 Belmont, Burlington,
 Cambridge,
 Concord, Everett,
 Framingham, Lexington,
 Lincoln, Malden, Maynard,
 Medford, Melrose, Natick,
 Newton, Reading, Sherborn,
 Somerville, Stoneham,
 Sudbury, Wakefield,
 Waltham, Watertown,
 Wayland, Weston,
 Winchester, Woburn);
 NORFOLK (Except Medway);
 PLYMOUTH (Abington,
 Bridgewater, Brocton,
 Duxbury, East Bridgewater,
 Halifax, Hanover, Hanson,
 Hingham, Hull, Kingston,
 Marshfield, Norwell,
 Pembroke, Plymouth,
 Plympton, Rockland,
 Scituate, West
 Bridgewater, Whitman);
 SUFFOLK.....\$ 34.89 22.85
 ESSEX (Amesbury, Andover,
 Boxford, Danvers, Essex,
 Georgetown, Hamilton,
 Haverhill, Ipswich,
 Lawrence, Merrimac,
 Methuen, Newbury,
 Newburyport, North
 Andover, Rockport, Rowley,
 Salisbury, Topsfield,
 Wenham, West Newbury);
 MIDDLESEX
 (Action, Billerica,
 Carlisle, Chelmsford,
 Dracut, Dunstable, Groton,
 Groveland, Littleton,
 Lowell, Middleton, North
 Reading, Pepperell,
 Tewksbury, Tyngsboro,
 Westford, Wilmington).....\$ 30.48 22.85

 IRON0007-010 09/16/2008

MIDDLESEX (Ashby, Ashland, Ayer, Boxboro, Holliston, Hopkinton,
 Hudson, Marlboro, Shirley, Stow, Townsend); NORFOLK (Medway)

	Rates	Fringes
IRONWORKER.....	\$ 34.89	22.85

* IRON0037-002 12/29/2008

BARNSTABLE; BRISTOL (Acushnet, Attleboro, Berkley, Dartmouth, Dighton, Fairhaven, Fall River, Freetown, Mansfield, New Bedford, North Attleboro, Norton, Raynham, Rehoboth, Seekonk, Somerset, Swansea, Taunton, Westport); DUKES; NANTUCKET; NORFOLK (Billingham, Franklin, Plainville, Wrentham); PLYMOUTH (Lakeville, Marion, Mattapoisett, Middleboro, Rochester, Wareham)

	Rates	Fringes
IRONWORKER.....	\$ 30.45	18.37

LABO0022-006 12/01/2008

SUFFOLK COUNTY (Boston, Chelsea, Revere, Winthrop, Deer & Nut Islands); MIDDLESEX COUNTY (Arlington, Belmont, Burlington, Cambridge, Everett, Malden, Medford, Melrose, Reading, Somerville, Stoneham, Wakefield, Winchester, Winthrop and Woburn only); NORFOLK COUNTY (Brookline, Dedham, and Milton only)

	Rates	Fringes
Laborers:		
GROUP 1.....	\$ 28.50	17.05
GROUP 2.....	\$ 28.75	17.05
GROUP 3.....	\$ 29.15	17.05
GROUP 4.....	\$ 29.50	17.05
GROUP 5.....	\$ 22.60	17.05
GROUP 6.....	\$ 30.50	17.05

LABORERS CLASSIFICATIONS

GROUP 1: Laborers; carpenter tenders; cement finisher tenders

GROUP 2: Asphalt raker; fence and guard rail erector; laser beam operator; mason tender; pipelayer; pneumatic drill operator; pneumatic tool operator; wagon drill operator

GROUP 3: Air track operator; block paver; rammer; curb setter

GROUP 4: Blaster; powderman

GROUP 5: Flagger

GROUP 6: Asbestos Abatement; Toxic and Hazardous Waste Laborers

LABO0022-012 12/01/2008

Counties of BARNSTABLE; BRISTOL; DUKES; ESSEX; NANTUCKET; PLYMOUTH; MIDDLESEX (With the exception of Arlington, Belmont, Burlington, Cambridge, Everett, Malden, Melrose, Reading, Somerville, Stoneham, Wakefield, Winchester, Winthrop and Woburn); NORFOLK (With the exception of Brookline, Dedham, and Milton)

	Rates	Fringes
Laborers:		
GROUP 1.....	\$ 26.55	15.65

GROUP 2.....	\$ 27.05	15.65
GROUP 3.....	\$ 27.30	15.65
GROUP 4.....	\$ 27.55	15.65
GROUP 5.....	\$ 20.65	15.65
GROUP 6.....	\$ 28.55	15.65

LABORERS CLASSIFICATIONS

GROUP 1: Laborers; carpenter tenders; cement finisher tenders

GROUP 2: Asphalt raker; fence and guard rail erector; laser beam operator; mason tender; pipelayer; pneumatic drill operator; pneumatic tool operator; wagon drilloperator

GROUP 3: Air track operator; block paver; rammer; curb setter; hydraulic & similar self powere drills

GROUP 4: Blaster; powderman

GROUP 5: Flagger

GROUP 6: Asbestos Abatement; Toxic and Hazardous Waste Laborers

LABO0022-013 12/01/2008

	Rates	Fringes
Laborers:		
(FREE AIR OPERATION):		
SHIELD DRIVEN AND LINER		
PLATE IN FREE AIR)		
GROUP 1.....	\$ 31.10	18.60+A
GROUP 2.....	\$ 31.10	18.60+A
(OPEN AIR CASSONS,		
UNDERPINNING AND TEST		
BORING INDUSTRIES):		
TEST BORING & WELL DRILLING		
Driller.....	\$ 29.75	17.20+A
Laborer.....	\$ 28.35	17.20+A
(OPEN AIR CASSONS,		
UNDERPINNING AND TEST		
BORING INDUSTRIES):		
OPEN AIR CASSON,		
UNDERPINNING WORK & BORING		
CREW		
Bottom man.....	\$ 29.50	17.20+A
Laborers; Top man.....	\$ 28.35	17.20+A
(TUNNELS, CAISSON &		
CYLINDER WORK IN		
COMPRESSED AIR)		
GROUP 1.....	\$ 28.55	18.60+A
GROUP 2.....	\$ 39.03	18.60+A
GROUP 3.....	\$ 39.03	18.60+A
GROUP 4.....	\$ 39.03	18.60+A
GROUP 5.....	\$ 39.03	18.60+A

GROUP 6.....	\$ 41.03	18.60+A
CLEANING CONCRETE AND CAULKING TUNNEL (Both New & Existing)		
GROUP 1.....	\$ 31.10	18.60+A
GROUP 2.....	\$ 31.10	18.60+A
ROCK SHAFT, CONCRETE LINING OF SAME AND TUNNEL IN FREE AIR		
GROUP 1.....	\$ 28.55	18.60+A
GROUP 2.....	\$ 31.10	18.60+A
GROUP 3.....	\$ 31.10	18.60+A
GROUP 4.....	\$ 31.10	18.60+A
GROUP 5.....	\$ 33.10	18.60+A

LABORERS CLASSIFICATIONS for TUNNELS, CAISSON & CYLINDER WORK
IN COMPRESSED AIR

GROUP 1: Powder watchman; Top man on iron bolt; change house attendant

GROUP 2: Brakeman; trackman; groutman; tunnel laborer;
outside lock tender; lock tender; guage tender

GROUP 3: Motorman, miner

GROUP 4: Blaster

GROUP 5: Mucking machine operator

GROUP 6: Hazardous Waste work within the "HOT" zone. (A premium of two dollars \$2.00 per hour over the basic wage rate.

LABORERS CLASSIFICATIONS for (FREE AIR OPERATION): SHIELD
DRIVEN AND LINER PLATE IN FREE AIR

GROUP 1: Miner; miner welder; conveyor operator; motorman;
mucking machine operator; nozzle man; grout man-; pumps,
shaft and tunnel steel and rodman; shield and erector arm
operators, mole nipper, outside motorman, burner, TBM
operator, safety miner; laborer topside; heading motormen;
erecting operators; top signal men

GROUP 2: Brakeman; trackman

LABORERS CLASSIFICATIONS FOR CLEANING CONCRETE AND CAULKING
TUNNEL (Both New & Existing)

GROUP 1: Concrete workers; strippers and form movers (wood &
steel), cement finisher

GROUP 2: Form erector (wood & steel and all accessories)

LABORERS CLASSIFICATIONS for ROCK SHAFT, CONCRETE LINING OF
SAME AND TUNNE IN FREE AIR

GROUP 1: Change house attendants

GROUP 2: Laborers, topside, bottom men (when heading is 50
ft. from shaft) and all other laborers

GROUP 3: Brakeman; trackman; tunnel laborers; shaft laborers

GROUP 4: Miner; cage tender; bellman

GROUP 5: Hazardous Waste work within the "HOT" zone. (A premium of two dollars \$2.00 per hour over the basic wage rate)

FOOTNOTE FOR LABORERS:

A. PAID HOLIDAYS: New Year's Day, Washington's Birthday, Patriot's Day, Memorial Day, Independence Day, Labor Day, Columbus Day, Veteran's Day, Thanksgiving Day, and Christmas Day

LABO1421-001 12/01/2008

WRECKING LABORERS:

	Rates	Fringes
Laborers:		
WRECKING LABORERS:		
Adzeman.....	\$ 28.50	17.05
Asbestos, Toxic,		
Hazardous Waste.....	\$ 28.50	17.05
Burners, Jackhammers.....	\$ 29.25	17.05
Small Backhoes, Loaders on Tracks, Bobcat Type Loaders and Hydraulic "Brock" Type Hammer Operators, Concrete Cutting Saws, Journeyman, Concrete Sawyer.....	\$ 29.50	17.05
Wrecking Laborer.....	\$ 28.50	17.05
Yardman Laborer (Salvage Yard Only).....	\$ 24.50	17.05
Yardman, Burners, Sawyers..	\$ 27.60	17.05

PAIN0035-001 07/01/2008

BARNSTABLE BRISTOL; DUKES; ESSEX; NANTUCKET; PLYMOUTH
(Remainder of NORFOLK; MIDDLESEX AND SUFFOLK COUNTIES)

	Rates	Fringes
Painters:		
NEW CONSTRUCTION:		
Bridge.....	\$ 41.26	19.70
Brush, Taper.....	\$ 30.76	19.70
Spray, Sandblast.....	\$ 32.16	19.70
REPAINT:		
Bridge.....	\$ 41.26	19.70
Brush, Taper.....	\$ 28.82	19.70
Spray, Sandblast.....	\$ 30.22	19.70

PAIN0035-015 07/01/2008

MIDDLESEX (Cambridge, Everett, Malden, Medford, Somerville)
SUFFOLK COUNTY (Boston, Chelsea) NORFOLK COUNTY (Brookline)

Rates	Fringes
-------	---------

Painters:

NEW CONSTRUCTION:

Brush, Taper.....	\$ 36.55	19.70
Spray, Sandblast.....	\$ 37.95	19.70

REPAINT:

Bridge.....	\$ 41.26	19.70
Brush, Taper.....	\$ 34.61	19.70
Spray, Sandblast.....	\$ 36.01	19.70

PAIN0035-017 06/01/2008

	Rates	Fringes
Sign Painter.....	\$ 24.05	12.47

* PLAS0534-001 01/01/2009

ESSEX; MIDDLESEX; NORFOLK AND SUFFOLK COUNTY

	Rates	Fringes
CEMENT MASON/CONCRETE FINISHER...	\$ 35.00	25.76

PLUM0004-001 09/01/2008MIDDLESEX (Ashby, Ayer-West of Greenville branch of Boston and
Maine Railroad, Ft. Devens, Groton, Shirley, Townsend)

	Rates	Fringes
Plumbers and Pipefitters.....	\$ 36.04	19.83

PLUM0012-001 03/01/2008

ESSEX (Lynn, Lynnfield, Nahant, Saugus, Swampscott); MIDDLESEX
(Acton, Arlington, Ashland, Ayer - except W. of Greenville
Branch of Boston & Maine RR, Bedford, Belmont, Billerica,
Boxboro, Burlington, Cambridge, Carlisle, Chelmsford, Concord,
Dracut, Dunstable, Everett, Framingham, Hudson, Holliston,
Hopkinton, Lexington, Lincoln, Littleton, Lowell, Malden,
Marlboro, Maynard, Medford, Melrose, Natick, Newton, North
Reading, Pepperell, Reading, Sherborn, Somerville, Stoneham,
Stow, Sudbury, Tewksbury, Tyngsboro, Wakefield, Waltham,
Watertown, Wayland, Westford, Wilmington, Winchester, Woburn);
NORFOLK (Bellingham, Braintree, Brokline, Canton, Cohasset,
Dedham, Dover, Foxboro, Franklin, Medfield, Medway, Millis,
Milton, Needham, Norfolk, Norwood, Plainville, Quincy, Sharon,
Walpole, Wellesley, Westwood, Weymouth, Wrentham); PLYMOUTH
(Hingham, Hull, Scituate); SUFFOLK

	Rates	Fringes
PLUMBER.....	\$ 42.97	20.23

PLUM0051-005 09/01/2008BARNSTABLE; BRISTOL; DUKES; NANTUCKET; NORFOLK (Avon, Holbrook,
Randolph, Stoughton) PLYMOUTH (Remainder of County)

	Rates	Fringes
Plumbers and Pipefitters.....	\$ 33.61	22.22

 PLUM0138-001 03/01/2008

ESSEX (Ames, Andover, Beverly, Boxford, Byfield, Danvers, Essex, Georgetown, Gloucester, Groveland, Hamilton, Haverhill, Ipswich, Lawrence, Manchester, Marblehead, Merrimac, Methuen, Middleton, Newbury, Newburyport, North Andover, Peabody, Rockport, Rowley, Salem, Salisbury, Topsfield, Wenham, West Newbury)

	Rates	Fringes
Plumber, Pipefitter, Steamfitter.....	\$ 34.66	22.21

PLUM0537-001 09/01/2008

MIDDLESEX (Arlington, Cambridge, Everett, Malden, Medford, Melrose, Reading, Wakefield, Winchester and Woburn); NORFOLK (Bellingham, Braintree, Brookline, Canton Cashasset, Dedham, Foxboro, Franklin, Millis, Milton, Sharon, Walpole, Westwood, and Wrentham); PLYMOUTH (Hingham, Hull, Scituate); ESSEX (Lynn, Lynnfield, Nahant, Saugus, Swampscott); SUFFOLK (Boston and Chelsea)

	Rates	Fringes
PIPEFITTER.....	\$ 45.34	20.06

TEAM0379-001 06/01/2008

	Rates	Fringes
Truck drivers:		
Group 1.....	\$ 29.63	11.51+A+B
Group 2.....	\$ 29.80	11.51+A+B
Group 3.....	\$ 29.87	11.51+A+B
Group 4.....	\$ 29.99	11.51+A+B
Group 5.....	\$ 30.09	11.51+A+B
Group 6.....	\$ 30.38	11.51+A+B
Group 7.....	\$ 30.67	11.51+A+B

POWER TRUCKS \$.25 DIFFERENTIAL BY AXLE

TUNNEL WORK (UNDERGROUND ONLY) \$.40 DIFFERENTIAL BY AXLE

HAZARDOUS MATERIALS (IN HOT ZONE ONLY) \$2.00 PREMIUM

TRUCK DRIVERS CLASSIFICATIONS

Group 1: Station wagons; panel trucks; and pickup trucks

Group 2: Two axle equipment; & forklift operator

Group 3: Three axle equipment and tireman

Group 4: Four and Five Axle equipment

Group 5: Specialized earth moving equipment under 35 tons
 other than conventional type trucks; low bed; vachual;
 mechanics, paving restoration equipment

Group 6: Specialized earth moving equipment over 35 tons

Group 7: Trailers for earth moving equipment (double hookup)

FOOTNOTES:

A. PAID HOLIDAYS: New Year's Day, Washington's Birthday, Memorial Day, Independence Day, Labor Day, Patriot's Day, Columbus Day, Veteran's Day, Thanksgiving Day and Christmas Day

B. PAID VACATION: Employees with 4 months to 1 year of service receive 1/2 day's pay per month; 1 week vacation for 1 - 5 years of service; 2 weeks vacation for 5 - 10 years of service; and 3 weeks vacation for more than 10 years of service

WELDERS - Receive rate prescribed for craft performing operation to which welding is incidental.
=====

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29CFR 5.5 (a) (1) (ii)).

In the listing above, the "SU" designation means that rates listed under the identifier do not reflect collectively bargained wage and fringe benefit rates. Other designations indicate unions whose rates have been determined to be prevailing.

WAGE DETERMINATION APPEALS PROCESS

1.) Has there been an initial decision in the matter? This can be:

- * an existing published wage determination
- * a survey underlying a wage determination
- * a Wage and Hour Division letter setting forth a position on a wage determination matter
- * a conformance (additional classification and rate) ruling

On survey related matters, initial contact, including requests for summaries of surveys, should be with the Wage and Hour Regional Office for the area in which the survey was conducted because those Regional Offices have responsibility for the Davis-Bacon survey program. If the response from this initial contact is not satisfactory, then the process described in 2.) and 3.) should be followed.

With regard to any other matter not yet ripe for the formal process described here, initial contact should be with the Branch of Construction Wage Determinations. Write to:

Branch of Construction Wage Determinations
Wage and Hour Division
U.S. Department of Labor
200 Constitution Avenue, N.W.

Washington, DC 20210

2.) If the answer to the question in 1.) is yes, then an interested party (those affected by the action) can request review and reconsideration from the Wage and Hour Administrator (See 29 CFR Part 1.8 and 29 CFR Part 7). Write to:

Wage and Hour Administrator
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

The request should be accompanied by a full statement of the interested party's position and by any information (wage payment data, project description, area practice material, etc.) that the requestor considers relevant to the issue.

3.) If the decision of the Administrator is not favorable, an interested party may appeal directly to the Administrative Review Board (formerly the Wage Appeals Board). Write to:

Administrative Review Board
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

4.) All decisions by the Administrative Review Board are final.

=====

**NOTICE TO ALL EMPLOYEES
REGARDING
PAYMENT OF LIVING WAGE**

Under the Somerville Living Wage Ordinance (Ordinance No. 1999-1), all employees directly expending their time on any City of Somerville contract in excess of \$10,000 are required to be paid a minimum wage of at least \$10.84 per hour. The only employees who are not covered by the Living Wage Ordinance are individuals in a Youth Program. "Youth Program" as defined in the Ordinance, "means any city, state or federally funded program which employs youth, as defined by city, state or federal guidelines, during the summer, or as part of a school to work program, or in other related seasonal or part-time program." For a copy of the Living Wage Ordinance, please contact Rositha Durham, Purchasing Director, City of Somerville 93 Highland Avenue, Somerville, MA 02143 (617-625-6600, x. 3400).

SOMERVILLE LIVING WAGE ORDINANCE FORM

(Ordinance No. 1999-1*)

This form shall be included in all Invitations for Bids and Requests for Proposals which involve the furnishing of labor, time or effort (with no end product other than reports) by vendors contracting or subcontracting with the City of Somerville, where the contract price meets or exceeds the following dollar thresholds:

- a) \$50,000 for contracts commencing during the period 7-1-99 to 6-30-01
(Fiscal Years 2000 and 2001);
- b) \$30,000 for contracts commencing during the period 7-1-01 to 6-30-03
(Fiscal Years 2002 and 2003); and
- c) \$10,000 for contracts commencing during the period 7-1-03 and thereafter
(Fiscal Years 2004 and thereafter.);

The purpose of this form is to ensure that such vendors pay a "Living Wage" (defined below) to all covered employees (i.e., all employees except individuals in a city, state or federally funded youth program). In the case of bids, the City will award the contract to the lowest responsive and responsible bidder paying a Living Wage. In the case of RFP's, the City will select the most advantageous proposal from a responsive and responsible offeror paying a Living Wage. In neither case, however, shall the City be under any obligation to select a bid or proposal that exceeds the funds available for the contract.

Definition of "Living Wage" For this contract or subcontract, as of 07-01-2008 "Living Wage" shall be deemed to be an hourly wage of no less than \$10.84/hour. From time to time, the Living Wage may be upwardly adjusted and amendments, if any, to the contract or subcontract may require the payment of a higher hourly rate if a higher rate is then in effect.

If the undersigned bidder or offeror is selected, this form will be attached to the contract or subcontract and the certifications made herein shall be incorporated as part of such contract or subcontract.

CERTIFICATIONS

- 1. The undersigned shall pay no less than the Living Wage to all covered employees who directly expend their time on the contract or subcontract with the City of Somerville.
- 2. The undersigned shall post a notice, (copy enclosed), to be furnished by the contracting City Department, informing covered employees of the protections and obligations provided for in the Somerville Living Wage Ordinance, and that for assistance and information, including copies of the Ordinance, employees should contact the contracting City Department. Such notice shall be posted in each location where services are performed by covered employees, in a conspicuous place where notices to employees are customarily posted.

* Copies of the Ordinance are available upon request to the Purchasing Department.

3. The undersigned shall maintain payrolls for all covered employees and basic records relating hereto and shall preserve them for a period of three years. The records shall contain the name and address of each employee, the number of hours worked, the gross wages, a copy of the social security returns, and evidence of payment thereof and such other data as may be required by the contracting City Department from time to time.
4. The undersigned shall submit payroll records to the City upon request and, if the City receives information of possible noncompliance with the provisions the Somerville Living Wage Ordinance, the undersigned shall permit City representatives to observe work being performed at the work site, to interview employees, and to examine the books and records relating to the payrolls being investigated to determine payment of wages.
5. The undersigned shall not fund wage increases required by the Somerville Living Wage Ordinance by reducing the health insurance benefits of any of its employees.
6. The undersigned agrees that the penalties and relief set forth in the Somerville Living Wage Ordinance shall be in addition to the rights and remedies set forth in the contract an/or subcontract.

Executed this 13TH day of FEB., 2009.

SEQUOIA CONSTRUCTION INC.

Name of Vendor

By: KEVIN MC CLOUD

Name

Its: TREASURER

Title

KMCL

Signature

APPENDIX F

CERTIFICATE OF GOOD STANDING (FOR CORPORATIONS)

INSERT DOCUMENT FROM BID BOOK HERE

Certificate of Good Standing: If the bidder is a corporation, a Certificate of Good Standing should accompany the bid. Certificate of Good Standing available online at: http://corp.sec.state.ma.us/corp/Certificates/Certificate_Request.asp or call Tel: (617) 727-9640 for more information.

CERTIFICATE OF GOOD STANDING

TO: Vendor

FROM: Purchasing Department

RE: **CERTIFICATE OF GOOD STANDING**

The **Awarded Vendor** must comply with our request for a **CURRENT “Certificate of Good Standing”**.

If you require information on how to obtain the “Certificate of Good Standing” or Certificate of Registration (Foreign Corporations) from the Commonwealth of Massachusetts, please call the Secretary of State’s Office at (617) 727-2850 (Press #1) located at One (1) Ashburton Place, 17th Floor, Boston, MA 02133 or you may access their web site at: www.MA.GOV/SEC/COR

If your company is incorporated outside of Massachusetts and therefore is a “foreign corporation”, but is registered to do business in Massachusetts, please comply with our request for the Certificate of Registration from the Commonwealth of Massachusetts. If your company is a foreign corporation, but is not registered to do business in Massachusetts, please provide the Certificate of Good Standing from your state of incorporation.

Please note that without the above certificate (s), the City of Somerville cannot execute your contract.

IMPORTANT NOTICE

Requests for Certificates of Good Standing by mail may take a substantial amount of time. A certificate may be obtained immediately in person at the Secretary’s Office at the address above. Also, at this time, the Secretary of State’s Office may not have your current annual report recorded. If this is the case, and you are therefore unable to obtain the Certificate of Good Standing, please forward a copy of your annual report filing fee check with your signed contracts. Please forward your original Certificate of Good Standing to the Purchasing Department upon receipt.

Thank You,

Purchasing Director



The Commonwealth of Massachusetts
Secretary of the Commonwealth
State House, Boston, Massachusetts 02133

William Francis Galvin
Secretary of the
Commonwealth

March 23, 2009

TO WHOM IT MAY CONCERN:

I hereby certify that according to the records of this office,

SEQUOIA CONSTRUCTION, INC.

is a domestic corporation organized on **February 14, 1994**, under the General Laws of the Commonwealth of Massachusetts.

I further certify that there are no proceedings presently pending under the Massachusetts General Laws Chapter 156D section 14.21 for said corporation's dissolution; that articles of dissolution have not been filed by said corporation; that, said corporation has filed all annual reports, and paid all fees with respect to such reports, and so far as appears of record said corporation has legal existence and is in good standing with this office.



In testimony of which,
I have hereunto affixed the
Great Seal of the Commonwealth
on the date first above written.

William Francis Galvin
Secretary of the Commonwealth

APPENDIX G

PROCUREMENT DOCUMENTATION

ADVERTISEMENTS, NOTICE TO BIDDERS, ETC.

NOTICE TO BIDDERS
BID #09-40CD

All bids must be in accordance with terms and conditions set forth herein as stated.

- SECTION A. Sealed bids for: **ADA Ramp Construction** with a substantial project completion date of September 1, 2009. The bids will be received at the office of the Purchasing Director, Somerville City Hall, 93 Highland Avenue, Somerville, MA. 02143 no later than **Friday, February 13, 2009 at 11:00 A.M.** at which time and place they will be publicly opened and read.
- A Pre-Bid Conference will be held on Monday, February 9, 2009 at 10:00 AM, OSPCD, 3rd floor Conference Room, Somerville City Hall, 93 Highland Avenue, Somerville, MA.**
- SECTION B. Forms of price bid, specifications and terms of contract can be obtained at the above office on or after Wednesday, January 21, 2009.
- SECTION C. Bid envelopes shall be clearly marked as follows: "**Bid No: 09-40CD, Bid for ADA Ramp Construction**".
- SECTION D. If **awarded** vendor is a Corporation, vendor must comply with request for "Certificate of Good Standing". See attached instructions.
- SECTION E. **INSURANCE: Awarded Vendor** must comply with insurance requirements as stated in the bid package.
- SECTION F. Living Wage - see specifications
- SECTION G. The requirements in Section E or F will be waived if the words "Non-Applicable" (N/A) are inserted in the space designated.
- SECTION H. The copy of the bid deposited with the City will be accompanied by a bid guarantee in the amount of 5% of the proposed bid amount. The estimated contract amount is \$140,000.00. A Bid bond, Certified Check, Treasurer's Check, or Cashier's Check made payable to the City must be submitted with each bid. Said bid guarantee will become the property of the City of Somerville if the proposal is accepted and the bidder either neglects or refuses to comply with the terms of the proposal. Bid guarantee will be returned within 30 days to all unsuccessful bidders.
- SECTION I. A Performance Bond and a Labor and Materials Bond in the amount of 100% of the total contract price will be required by the City.

SECTION J.

The Purchasing Director reserves the right to accept or reject any or all bids, to waive any minor informalities, to divide the award, to amend any specifications or to accept any portion of a bid, if in her sole judgment, the best interest of the City of Somerville would be served by so doing.

SECTION K.

The City reserves the right to cancel a contract, if awarded bidder does not respond to all necessary documents and required signature forms within twenty (20) working days of receipt of contract.

SECTION L.

The Vendor must certify that all employees to be provided have successfully completed at least ten (10) hours of OSHA approved training in Construction Safety and Health.

ADDENDA #1 ✓ #2 ✓ #3 #4 ACKNOWLEDGED
Failure to acknowledge receipt of addenda may result in your bid being rejected.

Signature: K McCloud

Signature Name & Title: KEVIN Mc CLOUD - TREASURER

Company: SEQUOIA CONSTRUCTION INC.

Date: 2-13-09 Tel. No: 781-447-8052 Fax: 781-447-8057

CR-2

CENTRAL REGISTER - GENERAL CONTRACTS

Public Contracts that are construction related and estimated to exceed \$10,000. Published two weeks prior to general bid opening.

AWARDING AUTHORITY AND PROJECT INFORMATION

AGENCY:

Somerville, City of
Purchasing Department
93 Highland Ave.
Somerville, MA 02143

PROJECT NUMBER:

IFB #09-40CD

ESTIMATED COST:

\$130,000.00

CONTRACTOR QUALIFICATION:

*(required for building contracts over \$100,000 and
highway contracts over \$50,000)*

PROJECT:

ADA Ramps: work consists of the construction of 12 Wheelchair ramps, meeting AAB standards, at four intersections.

CONTACT INFORMATION

PHONE 617-625-6600 ext. 3412

FAX: 617-625-1344

Karen Mancini

EMAIL: kmancini@somervillema.gov

PLANS/SPECIFICATIONS AVAILABLE

(place, date and time)

CONTRACT INFORMATION:

IFB BID DEADLIN

(date and time)

GENERAL BID DEADLIN

(date and time)

2/11/09 @ 11:00 A.M.

IFB BID CATEGORIE

ADDITIONAL INFORMATION Davis Bacon Wage Rates apply. 5% Bid Deposit Required.

ADA RAMPS (12) CONSTRUCTION
LEGAL NOTICE
CITY OF SOMERVILLE
PURCHASING DEPARTMENT
IFB # 09-40cd

The City of Somerville, through the Purchasing Department invites sealed bids for:

**ADA Ramps (12) Construction
Four Locations**

An Invitation for Bid (IFB) and specifications may be obtained at the Purchasing Department, City Hall, 93 Highland Ave., Somerville, MA 02143 on or after:

Wednesday, January 21, 2009

Sealed bids will be received at the above office until: **Wednesday, February 11, 2009 at 11:00 A.M.** at which time sealed bids will be opened. The Purchasing Director reserves the right to reject any or all proposals if, in her sole judgment, the best interest of the City of Somerville would be served by so doing.

**A Pre-Bid conference will be held
Tuesday, 2/3/2009 @ 10:00 AM
Somerville City Hall, OSPCD Conf.
Room, Third Floor**

The contract term shall be for a period of 1 year, from 3/1/2009 through 2/28/2010, with a substantial completion date of 9/1/2009.

Davis Bacon Wage Rates apply.
5% Bid Deposit required.

Rositha Durham
Purchasing Director
617-625-6600 x. 3400

AD#11870772
Somerville Journal 1-22-09

APPENDIX H

STATEMENT OF MANAGEMENT FOR CONTRACTS OVER \$100,000

STATEMENT OF MANAGEMENT

In accordance with M.G.L. Chapter 30, Section 39R, the undersigned successful bidder states that its system of internal accounting controls and that of its subsidiaries reasonably assure (1) that transactions are executed in accordance with management's general and specific authorization; (2) that transactions are recorded as necessary to permit preparation of financial statements in conformity with generally accepted accounting principles, and to maintain accountability for assets; (3) that access to assets is permitted only in accordance with management's general or specific authorization, and (4) that the recorded accountability for assets is compared with the existing assets at reasonable intervals and appropriate action was taken with respect to any difference.

Executed this 24 day of MARCH 2009

On behalf of SEQUOIA CONST
(Successful bidder name)

10 BUCKLEY AV WHITMAN MA.
(Address and telephone of successful bidder)

781-447-8052
Edward McCLOUD
(Name and title of person signing statement)

By: [Signature]
(Signature)

CERTIFIED PUBLIC ACCOUNTANT STATEMENT

In accordance with M.G.L. 30, Section 39R I, Robert H. Dugas, CPA
a certified public accountant, state that I have examined the above Statement of Management on internal accounting controls, and that in my opinion (1) the representations of management are consistent with the result of management's evaluation of the system of internal accounting controls; and (2) that such representations of management are, in addition, reasonable with respect to transactions and assets in amounts which would be material when measured in relation to the above referenced successful bidder's financial statements.

Robert H. Dugas, CPA
(Signature)

Dugas, Andrews & Bramwell, LLC

720 Washington Street

Co. Building name, address and telephone number)
Hanover, MA 02339

APPENDIX I

PERFORMANCE BOND AND PAYMENT BOND

FOR CONTRACTS OVER \$2000

PERFORMANCE BOND

(PUBLIC CONTRACT - COMMONWEALTH OF MASSACHUSETTS)

Bond No. 929473995

KNOW ALL MEN BY THESE PRESENTS:

That Sequoia Construction, Inc., 10 Buckley Avenue, Whitman, MA 02382

as Principal, hereinafter called Contractor, and Western Surety Company, 100 Newport Ave Extension, 4th Floor, Quincy, MA 02171

as Surety, hereinafter called Surety, are held and firmly bound unto City of Somerville 93 Highland Ave., Somerville, MA 02143

as Obligee, hereinafter called Owner, in the penal sum of ONE HUNDRED THIRTY-FIVE THOUSAND NINE HUNDRED AND NO/100THS

DOLLARS (\$135,900.00

for the payment of which sum well and truly to be made we bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, Contractor has by written agreement dated

entered into a contract with Owner for ADA Ramp Construction, 4 Locations Bid # 09-40CD

which contract is by reference made a part hereof, and is hereinafter referred to as the Contract.

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION is such that, if the Contractor shall well and truly perform and fulfill all the undertakings, covenants, terms, conditions, and agreements for said Contract during the original term of said Contract and any extensions thereof that may be granted by the Owner, with or without notice to the Surety, and during the life of any guaranty required under the contract, and shall also well and truly perform and fulfill all the undertakings, covenants, terms, conditions, and agreements of any and all duly authorized modifications of said Contract that may hereafter be made, notice of which modifications to Surety being hereby waived, then this obligation to be void; otherwise to remain in full force and virtue.

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands and affixed their seals on

Sequoia Construction, Inc.

Witness as to Principal:

By

CLERK

Western Surety Company

By

Adam W. DeSanctis, Attorney-in-Fact

PAYMENT BOND

(PUBLIC CONTRACT - COMMONWEALTH OF MASSACHUSETTS)

Bond No. 929473995

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as Obligee, hereinafter called Owner, in the penal sum of ONE HUNDRED THIRTY-FIVE THOUSAND NINE
HUNDRED AND NO/100THS

DOLLARS (\$135,900.00)

for the payment of which sum well and truly to be made we bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, Contractor has by written agreement dated

entered into a contract with Owner for ADA Ramp Construction, 4 Locations Bid # 09-40CD

NOW, THEREFORE, if the Contractor and his subcontractors shall pay for labor performed and materials used or employed in the employed in the prosecution of the work provided for in said contract and for all other items of the kind and nature specified in Chapter 149, Section 29, of the General Laws of Massachusetts, then this obligation shall be void; otherwise to remain in full force and effect;

PROVIDED, HOWEVER, that in order to obtain the benefits of this bond, all claimants shall comply with all the provisions of said of said Chapter 149, Section 29, which are pertinent to their claims, and all rights and liabilities on this bond shall be determined and limited by said section to the same extent as if this were copied at length herein.

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands and affixed their seals on

Sequoia Construction, Inc.

Witness as to Principal:

By

Western Surety Company

By

Adam W. DeSanctis, Attorney-in-Fact

APPENDIX F

CERTIFICATE OF GOOD STANDING (FOR CORPORATIONS)

INSERT DOCUMENT FROM BID BOOK HERE

Certificate of Good Standing: If the bidder is a corporation, a Certificate of Good Standing should accompany the bid. Certificate of Good Standing available online at: http://corp.sec.state.ma.us/corp/Certificates/Certificate_Request.asp or call Tel: (617) 727-9640 for more information.

CERTIFICATE OF GOOD STANDING

TO: Vendor

FROM: Purchasing Department

RE: **CERTIFICATE OF GOOD STANDING**

The **Awarded Vendor** must comply with our request for a **CURRENT “Certificate of Good Standing”**.

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Thank You,

Purchasing Director



The Commonwealth of Massachusetts
Secretary of the Commonwealth
State House, Boston, Massachusetts 02133

William Francis Galvin
Secretary of the
Commonwealth

March 23, 2009

TO WHOM IT MAY CONCERN:

I hereby certify that according to the records of this office,

SEQUOIA CONSTRUCTION, INC.

is a domestic corporation organized on **February 14, 1994**, under the General Laws of the Commonwealth of Massachusetts.

I further certify that there are no proceedings presently pending under the Massachusetts General Laws Chapter 156D section 14.21 for said corporation's dissolution; that articles of dissolution have not been filed by said corporation; that, said corporation has filed all annual reports, and paid all fees with respect to such reports, and so far as appears of record said corporation has legal existence and is in good standing with this office.



In testimony of which,
I have hereunto affixed the
Great Seal of the Commonwealth
on the date first above written.

William Francis Galvin
Secretary of the Commonwealth

APPENDIX G

PROCUREMENT DOCUMENTATION

ADVERTISEMENTS, NOTICE TO BIDDERS, ETC.

NOTICE TO BIDDERS
BID #09-40CD

All bids must be in accordance with terms and conditions set forth herein as stated.

- SECTION A. Sealed bids for: **ADA Ramp Construction** with a substantial project completion date of September 1, 2009. The bids will be received at the office of the Purchasing Director, Somerville City Hall, 93 Highland Avenue, Somerville, MA. 02143 no later than **Friday, February 13, 2009 at 11:00 A.M.** at which time and place they will be publicly opened and read.
- A Pre-Bid Conference will be held on Monday, February 9, 2009 at 10:00 AM, OSPCD, 3rd floor Conference Room, Somerville City Hall, 93 Highland Avenue, Somerville, MA.**
- SECTION B. Forms of price bid, specifications and terms of contract can be obtained at the above office on or after Wednesday, January 21, 2009.
- SECTION C. Bid envelopes shall be clearly marked as follows: "**Bid No: 09-40CD, Bid for ADA Ramp Construction**".
- SECTION D. If **awarded** vendor is a Corporation, vendor must comply with request for "Certificate of Good Standing". See attached instructions.
- SECTION E. **INSURANCE: Awarded Vendor** must comply with insurance requirements as stated in the bid package.
- SECTION F. Living Wage - see specifications
- SECTION G. The requirements in Section E or F will be waived if the words "Non-Applicable" (N/A) are inserted in the space designated.
- SECTION H. The copy of the bid deposited with the City will be accompanied by a bid guarantee in the amount of 5% of the proposed bid amount. The estimated contract amount is \$140,000.00. A Bid bond, Certified Check, Treasurer's Check, or Cashier's Check made payable to the City must be submitted with each bid. Said bid guarantee will become the property of the City of Somerville if the proposal is accepted and the bidder either neglects or refuses to comply with the terms of the proposal. Bid guarantee will be returned within 30 days to all unsuccessful bidders.
- SECTION I. A Performance Bond and a Labor and Materials Bond in the amount of 100% of the total contract price will be required by the City.

SECTION J.

The Purchasing Director reserves the right to accept or reject any or all bids, to waive any minor informalities, to divide the award, to amend any specifications or to accept any portion of a bid, if in her sole judgment, the best interest of the City of Somerville would be served by so doing.

SECTION K.

The City reserves the right to cancel a contract, if awarded bidder does not respond to all necessary documents and required signature forms within twenty (20) working days of receipt of contract.

SECTION L.

The Vendor must certify that all employees to be provided have successfully completed at least ten (10) hours of OSHA approved training in Construction Safety and Health.

ADDENDA #1 ✓ #2 ✓ #3 _____ #4 _____ ACKNOWLEDGED
Failure to acknowledge receipt of addenda may result in your bid being rejected.

Signature: K McCloud

Signature Name & Title: KEVIN Mc CLOUD - TREASURER

Company: SEQUOIA CONSTRUCTION INC.

Date: 2-13-09 Tel. No: 781-447-8052 Fax: 781-447-8057

CR-2

CENTRAL REGISTER - GENERAL CONTRACTS

Public Contracts that are construction related and estimated to exceed \$10,000. Published two weeks prior to general bid opening.

AWARDING AUTHORITY AND PROJECT INFORMATION

AGENCY:

Somerville, City of
Purchasing Department
93 Highland Ave.
Somerville, MA 02143

PROJECT NUMBER:

IFB #09-40CD

ESTIMATED COST:

\$130,000.00

CONTRACTOR QUALIFICATION:

*(required for building contracts over \$100,000 and
highway contracts over \$50,000)*

PROJECT:

ADA Ramps: work consists of the construction of 12 Wheelchair ramps, meeting AAB standards, at four intersections.

CONTACT INFORMATION

PHONE 617-625-6600 ext. 3412

FAX: 617-625-1344

Karen Mancini

EMAIL: kmancini@somervillema.gov

PLANS/SPECIFICATIONS AVAILABLE

(place, date and time)

CONTRACT INFORMATION:

IFB BID DEADLIN

(date and time)

GENERAL BID DEADLIN

(date and time)

2/11/09 @ 11:00 A.M.

IFB BID CATEGORIE

ADDITIONAL INFORMATION Davis Bacon Wage Rates apply. 5% Bid Deposit Required.

**ADA RAMPS (12) CONSTRUCTION
LEGAL NOTICE
CITY OF SOMERVILLE
PURCHASING DEPARTMENT
IFB # 09-40cd**

The City of Somerville, through the Purchasing Department invites sealed bids for:

**ADA Ramps (12) Construction
Four Locations**

An Invitation for Bid (IFB) and specifications may be obtained at the Purchasing Department, City Hall, 93 Highland Ave., Somerville, MA 02143 on or after:

Wednesday, January 21, 2009

Sealed bids will be received at the above office until: **Wednesday, February 11, 2009 at 11:00 A.M.** at which time sealed bids will be opened. The Purchasing Director reserves the right to reject any or all proposals if, in her sole judgment, the best interest of the City of Somerville would be served by so doing.

**A Pre-Bid conference will be held
Tuesday, 2/3/2009 @ 10:00 AM
Somerville City Hall, OSPCD Conf.
Room, Third Floor**

The contract term shall be for a period of 1 year, from 3/1/2009 through 2/28/2010, with a substantial completion date of 9/1/2009.

Davis Bacon Wage Rates apply.
5% Bid Deposit required.

**Rositha Durham
Purchasing Director
617-625-6600 x. 3400**

**AD#11870772
Somerville Journal 1-22-09**

APPENDIX H

STATEMENT OF MANAGEMENT FOR CONTRACTS OVER \$100,000

STATEMENT OF MANAGEMENT

In accordance with M.G.L. Chapter 30, Section 39R, the undersigned successful bidder states that its system of internal accounting controls and that of its subsidiaries reasonably assure (1) that transactions are executed in accordance with management's general and specific authorization; (2) that transactions are recorded as necessary to permit preparation of financial statements in conformity with generally accepted accounting principles, and to maintain accountability for assets; (3) that access to assets is permitted only in accordance with management's general or specific authorization, and (4) that the recorded accountability for assets is compared with the existing assets at reasonable intervals and appropriate action was taken with respect to any difference.

Executed this 24 day of MARCH 2009

On behalf of SEQUOIA CONST
(Successful bidder name)

10 BUCKLEY AV WHITMAN MA.
(Address and telephone of successful bidder)
781-447-8052

Edward McCLOUD
(Name and title of person signing statement)

By: [Signature]
(Signature)

CERTIFIED PUBLIC ACCOUNTANT STATEMENT

In accordance with M.G.L. 30, Section 39R I, Robert H. Dugas, CPA
a certified public accountant, state that I have examined the above Statement of Management on internal accounting controls, and that in my opinion (1) the representations of management are consistent with the result of management's evaluation of the system of internal accounting controls; and (2) that such representations of management are, in addition, reasonable with respect to transactions and assets in amounts which would be material when measured in relation to the above referenced successful bidder's financial statements.

Robert H. Dugas, CPA
(Signature)

Dugas, Andrews & Bramwell, LLC

720 Washington Street

Co. Building name, address and telephone number)

Hanover, MA 02339

APPENDIX I

PERFORMANCE BOND AND PAYMENT BOND

FOR CONTRACTS OVER \$2000

PERFORMANCE BOND

(PUBLIC CONTRACT - COMMONWEALTH OF MASSACHUSETTS)

Bond No. 929473995

KNOW ALL MEN BY THESE PRESENTS:

That Sequoia Construction, Inc., 10 Buckley Avenue, Whitman, MA 02382

as Principal, hereinafter called Contractor, and Western Surety Company, 100 Newport Ave Extension, 4th Floor, Quincy, MA 02171

as Surety, hereinafter called Surety, are held and firmly bound unto City of Somerville 93 Highland Ave., Somerville, MA 02143

as Obligee, hereinafter called Owner, in the penal sum of ONE HUNDRED THIRTY-FIVE THOUSAND NINE HUNDRED AND NO/100THS

DOLLARS (\$135,900.00

for the payment of which sum well and truly to be made we bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, Contractor has by written agreement dated

entered into a contract with Owner for ADA Ramp Construction, 4 Locations Bid # 09-40CD

which contract is by reference made a part hereof, and is hereinafter referred to as the Contract.

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION is such that, if the Contractor shall well and truly perform and fulfill all the undertakings, covenants, terms, conditions, and agreements for said Contract during the original term of said Contract and any extensions thereof that may be granted by the Owner, with or without notice to the Surety, and during the life of any guaranty required under the contract, and shall also well and truly perform and fulfill all the undertakings, covenants, terms, conditions, and agreements of any and all duly authorized modifications of said Contract that may hereafter be made, notice of which modifications to Surety being hereby waived, then this obligation to be void; otherwise to remain in full force and virtue.

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands and affixed their seals on

Sequoia Construction, Inc.

Witness as to Principal:

By

CLERK

Western Surety Company

By

Adam W. DeSanctis, Attorney-in-Fact

PAYMENT BOND

(PUBLIC CONTRACT - COMMONWEALTH OF MASSACHUSETTS)

Bond No. 929473995

KNOW ALL MEN BY THESE PRESENTS:

That Sequoia Construction, Inc., 10 Buckley Avenue, Whitman, MA 02382

as Principal, hereinafter called Contractor, and Western Surety Company, 100 Newport Ave Extension, 4th Floor, Quincy, MA 02171

as Surety, hereinafter called Surety, are held and firmly bound unto City of Somerville
93 Highland Ave., Somerville, MA 02143

as Obligee, hereinafter called Owner, in the penal sum of ONE HUNDRED THIRTY-FIVE THOUSAND NINE
HUNDRED AND NO/100THS

DOLLARS (\$135,900.00)

for the payment of which sum well and truly to be made we bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, Contractor has by written agreement dated

entered into a contract with Owner for ADA Ramp Construction, 4 Locations Bid # 09-40CD

NOW, THEREFORE, if the Contractor and his subcontractors shall pay for labor performed and materials used or employed in the employed in the prosecution of the work provided for in said contract and for all other items of the kind and nature specified in Chapter 149, Section 29, of the General Laws of Massachusetts, then this obligation shall be void; otherwise to remain in full force and effect;

PROVIDED, HOWEVER, that in order to obtain the benefits of this bond, all claimants shall comply with all the provisions of said of said Chapter 149, Section 29, which are pertinent to their claims, and all rights and liabilities on this bond shall be determined and limited by said section to the same extent as if this were copied at length herein.

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands and affixed their seals on

Sequoia Construction, Inc.

Witness as to Principal:

By

Western Surety Company

By

Adam W. DeSanctis, Attorney-in-Fact

Western Surety Company

POWER OF ATTORNEY APPOINTING INDIVIDUAL ATTORNEY-IN-FACT

Know All Men By These Presents, That WESTERN SURETY COMPANY, a South Dakota corporation, is a duly organized and existing corporation having its principal office in the City of Sioux Falls, and State of South Dakota, and that it does by virtue of the signature and seal herein affixed hereby make, constitute and appoint

Gregory D Juwa, James J Axon, Michael F Carney, Wilder Parks Jr, Michael T Gilbert, Adam W De Sanctis, Christine B Gallagher, Bryan F Juwa, Paul A Patalano, David A Boutiette, Individually

of Woburn, MA, its true and lawful Attorney(s)-in-Fact with full power and authority hereby conferred to sign, seal and execute for and on its behalf bonds, undertakings and other obligatory instruments of similar nature

- In Unlimited Amounts -

and to bind it thereby as fully and to the same extent as if such instruments were signed by a duly authorized officer of the corporation and all the acts of said Attorney, pursuant to the authority hereby given, are hereby ratified and confirmed.

This Power of Attorney is made and executed pursuant to and by authority of the By-Law printed on the reverse hereof, duly adopted, as indicated, by the shareholders of the corporation.

In Witness Whereof, WESTERN SURETY COMPANY has caused these presents to be signed by its Senior Vice President and its corporate seal to be hereto affixed on this 11th day of November, 2008.



WESTERN SURETY COMPANY

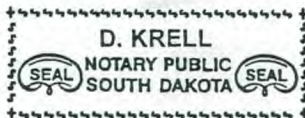
Paul T. Bruflat, Senior Vice President

State of South Dakota }
County of Minnehaha } ss

On this 11th day of November, 2008, before me personally came Paul T. Bruflat, to me known, who, being by me duly sworn, did depose and say: that he resides in the City of Sioux Falls, State of South Dakota; that he is the Senior Vice President of WESTERN SURETY COMPANY described in and which executed the above instrument; that he knows the seal of said corporation; that the seal affixed to the said instrument is such corporate seal; that it was so affixed pursuant to authority given by the Board of Directors of said corporation and that he signed his name thereto pursuant to like authority, and acknowledges same to be the act and deed of said corporation.

My commission expires

November 30, 2012



D. Krell, Notary Public

CERTIFICATE

I, L. Nelson, Assistant Secretary of WESTERN SURETY COMPANY do hereby certify that the Power of Attorney hereinabove set forth is still in force, and further certify that the By-Law of the corporation printed on the reverse hereof is still in force. In testimony whereof I have hereunto subscribed my name and affixed the seal of the said corporation this _____ day of _____, _____.



WESTERN SURETY COMPANY

L. Nelson, Assistant Secretary

APPENDIX J

SECTION 3 REQUIREMENTS

APPENDIX J

SECTION 3 REQUIREMENTS

There is a dollar threshold, above which Section 3 applies and below which it does not apply. Section 3 applies to the recipient of a community development assistance award, for which the total assistance provided, including the HUD share, is in excess of \$200,000.00. Section 3 also applies to any contractor or subcontractor (including contractors who supply professional services, but not including contractors who only furnish materials or equipment and do not undertake the work of installing the materials or operating the equipment) who perform work on a project for which the recipient's total assistance award exceeds \$200,000.00 and the amount of the contract or subcontract exceeds \$100,000.00. If this Appendix appears in the contract, it is because the City of Somerville, acting by and through its Office of Strategic Planning and Community Development, has determined that the dollar threshold has been exceeded and that Section 3 applies.

In housing and community development programs, a hiring preference shall be given, to the greatest extent feasible,

- 1) in the case of newly created, full-time jobs for permanent, temporary, and/or seasonal employees, to low-income and very low-income persons; and
- 2) in the case of contracts and subcontracts, to business concerns which:
 - a) are owned (51% or more) by low- or very low-income persons; or
 - b) employ a substantial number (30% or more) or employees who are low- or very low-income, or employees who were low- or very low-income when first employed and the date of first employment was within the preceding three years; or,
 - c) have demonstrated a commitment to award more than 25% of the dollar amount of all subcontracts to businesses that fall within a) or b) above.

A person will be considered low- or very low-income if his or her family income is at or below the following limits for families from one to eight persons. (For each person in excess of eight, 8% of the 4-person limit should be added to the 8-person limit, and the result should be rounded up or down to the nearest \$50.00.

size of family	1	2	3	4
very low-income	\$29,450	\$33,650	\$37,850	\$42,050
low-income	\$46,300	\$52,950	\$59,550	\$66,150
size of family	5	6	7	8
very low-income	\$45,400	\$48,800	\$52,150	\$55,500
low-income	\$71,450	\$76,750	\$82,050	\$87,350

opportunities were provided in lieu of strict compliance with Section 3 (such as the use of "upward mobility", "bridge" and trainee positions to fill vacancies; or the hiring of low- and very low-income persons in part-time, as opposed to full-time, positions; or in the case of contractors and subcontractors, the formation of joint ventures with a Section 3 business concern, provided there is a written agreement for the specific business venture and the Section 3 business (i) is responsible for a clearly defined portion of the work to be performed and holds management responsibilities in the joint venture, and (ii) performs at least 25% of the work and is contractually entitled to compensation proportionate to its work.)

HUD requires that the following italicized statement be included in all contracts to which Section 3 applies:

A. The work to be performed under this contract is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701-u (Section 3). The purpose of Section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by Section 3, shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing.

B. The parties to this contract agree to comply with HUD's regulations in 24 CFR Part 135, which implement Section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the part 135 regulations.

C. The contractor agrees to send to each labor organization or representative of workers with which the contractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the contractor's commitments under this Section 3 clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the Section 3 preference, shall set forth minimum number and job titles subject to hire; availability of apprenticeship and training positions and the qualifications for each; the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.

D. The contractor agrees to include this Section 3 clause in every subcontract subject to compliance with regulations in 24 CFR part 135, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this Section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 CFR part 135. The contractor will not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations 24 CFR part 135.

E. The contractor will certify that any vacant employment positions, including training positions, that are filled (1) after the contractor is selected but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR part 135

require employment opportunities to be directed, were not filled to circumvent the contractors obligations under 24 CFR part 135.

F. Noncompliance with HUD's regulations in 24 CFR part 135 may result in sanctions, termination of this contract for default, and debarment of suspension from future HUD assisted contracts.

Section 3 Statement

The undersigned does does not anticipate that it will be hiring new employees during the term of this contract.

The undersigned does _____ does not _____

anticipate that it will be hiring contractors (not applicable if the undersigned is itself a contractor, but applicable if the undersigned is a not-for-profit agency) or subcontractors to execute this project. The undersigned agrees to furnish the names and Section 3 eligibility data of any such contractors or subcontractors to the City.

Name of Company:

SEQUOIA Const

Signature:

[Signature]

Title:

Clerk

APPENDIX K

LAWS APPLICABLE TO FEDERALLY FUNDED CONTRACTS

FEDERAL REQUIREMENTS

OVERALL COMPLIANCE

1. The Contractor/Vendor agrees to comply with all federal statutes and regulations applicable to the federal program under which this contract has been funded. Without limiting the generality of the foregoing, such statutes and regulations are likely to include the Housing and Community Development Act of 1974 and Community Development Block Grant (CDBG) Entitlement Program Regulations at 24 CFR 570 et seq. issued pursuant thereto (CDBG being the primary funding source for Office of Strategic Planning and Community Development activities).
2. The Contractor/Vendor shall comply with standards contained in OMB Circular A-102, dealing with Uniform Administrative Requirements for Grants-in-Aid to State and Local Governments. As applicable, the Contractor/Vendor shall provide written reports at intervals; shall develop and maintain a system of record keeping which protects the personal privacy and confidentiality of individuals providing information as a basis for establishing eligibility for federal assistance; shall keep accurate records or the length of time required by the funding source; shall provide the City with information needed by the City to meet the City's monitoring obligations to HUD; shall, as a basis for reporting its compliance with Equal Opportunity regulations, maintain and compile data according to the provisions of Title 24 CFR 570.907(f); and shall permit the City, HUD, and the Comptroller General of the United States, or any of their duly authorized representatives, to have access to any books, documents, papers, and records of the Contractor/Vendor relating to this Contract
3. The Contractor/Vendor shall follow Federal Management Circular 74-4 as it pertains to allowability and allocatability of costs under this Agreement.
4. The Contractor/Vendor hereby consent to the jurisdiction of the federal court if the City elects to bring a proceeding in federal court.

EQUAL OPPORTUNITY/NONDISCRIMINATION

5. The Contractor/Vendor shall afford equal opportunity as required under the rules and regulations of Title VI, Civil Rights Act, 1964, Title VIII, 1968 Executive Order 11246, as amended, Executive Order 11063, and 24 CFR, Part 570.
6. The Contractor/Vendor shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, physical or mental handicap, sexual preference, ethnic background, national origin, or veteran status. The Contractor/Vendor will take affirmative action to ensure that applicants are employed and that employees are treated during employment, without regard to any of the aforementioned bases of discrimination or any other prohibited basis of discrimination. Such action shall include, but not be limited to, the following: Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor/Vendor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth provisions of the nondiscrimination clause. The Contractor/Vendor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor/Vendor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, physical or mental handicap, sexual preference, ethnic background, national origin, or veteran status.
7. The Contractor/Vendor agrees to comply with all rules, regulations and relevant

orders issued pursuant to the Rehabilitation Act of 1973. In the event of the Vendor's noncompliance with the requirements of this clause, actions for noncompliance may be taken in accordance with the rules, regulations and orders issued pursuant to the Rehabilitation Act. The Contractor/Vendor will notify all those with which it has contractual understandings that the subgrantee is bound by the terms of the Rehabilitation Act of 1973, and is committed to take affirmative action to employ and advance in employment physically and mentally handicapped individuals.

ENVIRONMENTAL PROTECTION

8. National Environmental Policy Act: In order to assure that the policies of the National Environmental Policy Act of 1969 are most effectively implemented in connection with the expenditure of funds under this Agreement, the Contractor/Vendor shall cooperate and assist City in complying with the HUD Environmental Review Procedures (24 CFR Part 58).
9. Clean Air and Water Acts: If applicable, the Contractor/Vendor shall comply with the requirements of the Clean Air Act, as amended, 42 USC 1857 et seq., the Federal Water Pollution Control Act, as amended, 33 USC 1251 et seq. and the regulations of the Environmental Protection Agency with respect thereto, at 40 CFR, Part 15, as amended from time to time.

HISTORIC PROTECTION/PRESERVATION

10. The Contractor/Vendor shall make every effort to eliminate or minimize any adverse effect of the Project on any district, site, building, structure or object listed on or eligible for nomination to the National Register of Historic Places.
11. If applicable, the Contractor/Vendor shall meet the historic preservation requirements of Public Law 89-665 and the Archaeological and Historic Preservation Act of 1974, P.L. 930291; Executive Order 11593; and the procedures prescribed by the Advisory Council on Historic Preservation in 36 CFR Part 800.

ARCHITECTURAL BARRIERS/AMERICANS WITH DISABILITIES ACT

12. If applicable, the Contractor/Vendor shall implement the Project in Compliance with The Architectural Barriers Act of 1968 (42 U.S.C. 4151-4157) which requires federally funded buildings and other facilities to be designed, constructed, or altered in accordance with standards that insure accessibility to, and use by, physically handicapped people in compliance with Uniform Federal Accessibility Standards at 24 CFR and 41 CFR..

If applicable, the Contractor/Vendor shall comply with the Americans with Disabilities Act (42 U.S.C. 12131; 47 U.S.C. 155, 201, 218, and 225), which provides comprehensive rights to individuals with disabilities in the areas of employment, public accommodations, state and local government services, and telecommunications.

FLOOD DISASTER PROTECTION

13. The Contractor/Vendor shall be subject to the requirements of the Flood Disaster Protection Act of 1973 (P.L. 93-234), in that any acquisition or construction in an area identified by the Secretary as having special flood hazards shall be subject to the mandatory purchase of flood insurance requirements of Section 101 (a) of said Act; and any contract or agreement for the sale, lease, or other transfer of land acquired, cleared or improved with federal assistance in an area identified by the Secretary as having special flood hazards, shall obligate the transferee and its successors or assigns to obtain and maintain, during the ownership of such land, such flood insurance.

LEAD-BASED PAINT HAZARDS

14. The Contractor/Vendor shall, if the Contract involves construction or rehabilitation of residential structures with federal assistance, comply with HUD Lead-Based Paint Regulations at 24 CFR Part 25.

WORK HOURS AND SAFETY STANDARDS

15. In construction contracts in excess of \$2,000 and other contracts in excess of \$2,500, the Contractor/Vendor agrees to obtain the compliance of all subcontractors with Sections 103 and 107 of the Contract Work Hours Safety Standards Act (40 U.S.C. 327-5). Under Section 103 of the act, the Vendor is required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard workday or workweek if permissible provided that the worker is compensated at a rate of not less than 1-1/2 times the basic rate of pay for all hours worked in excess of 40 hours in the work week. Section 107 of the Act is applicable to construction work and provides that no laborer or mechanic shall be required to work in surroundings or under working conditions which are unsanitary or hazardous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

CONFLICT OF INTEREST

16. The Contractor/Vendor shall comply with the following laws:

- a) Interest of Federal Officials:

No Member or Delegate to the Congress of the United States, and no Resident Commissioner, shall be admitted to any share or part of this Agreement or to any benefit to arise from the same.

- b) Interest of Members, Officers, or Employees of the Vendor, Members of the City, or other Public Officials

No member, officer, or employee of the Contractor/Vendor, or its designees or agents, and no officer, employee or agent of the City, who exercises any functions or responsibilities with respect to planning and implementing of the Project during his tenure or for one year thereafter, shall have any interest, direct or indirect in any contract or subcontract, or the proceeds thereof, for work to be performed in connection with the Project assisted under this Agreement. The Contractor/Vendor shall incorporate or cause to be incorporated, in all such

contracts or subcontracts a provision as follows in prohibiting such interest pursuant to the purposes of this section.

UNIFORM ADMINISTRATIVE REQUIREMENTS

The following uniform administrative requirements set forth at 24 CFR 570.502 are applicable to grantees falling within the definition of “subrecipient” set forth at 24 CFR 570.500 (vendors rendering professional services and contractors performing construction are not “subrecipients” and are not covered under this section):

17. Subrecipients which are Governmental Agencies: subrecipients which are governmental agencies shall comply with the requirements and standards of OMB Circular No. A-87, “Cost Principles for State, Local, and Indian Tribal Governments”; OMB Circular A-128, “Audits of State and Local Governments” (implemented at 24 CFR part 44); and with the following sections of 24 CFR part 85, “Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments” or the related CDBG provisions, as specified in this paragraph: (1) Section 85.3, “Definitions”; (2) Section 85.6, “Exceptions”; (3) Section 85.12, “Special grant or subgrant conditions for ‘high risk’ grantees”; (4) Section 85.20, “Standards for financial management systems”, except paragraph (a); (5) Section 85.21, “Payment”, except as modified by §570.513; (6) Section 85.22, “Allowable Costs”; (7) Section 85.26, “Non-federal audits”; (8) Section 85.32, “Equipment”, except in all cases in which the equipment is sold, the proceeds shall be program income; (9) Section 85.3, “Supplies”; (10) Section 85.34, “Copyrights”; (11) Section 85.35, “Subawards to debarred and suspended parties”; (12) Section 85.36, “Procurement”, except paragraph (a); (13) Section 85.37 “Subgrants”; (14) Section 85.40, “Monitoring and Reporting Program Performance”, except paragraphs (b) through (d) and paragraph (f); (15) Section 85.41, “Financial Reporting”, except paragraphs (a), (b), and (e); (16) Section 85.42 “Retention and Access Requirements for Your Records”, except that the period shall be four years; Section 85.43, “Enforcement”; (18) Section 85.44 “Termination for Convenience”; (19) Section 85.51, “Later Disallowances and Adjustments” and (20) Section 85.52, “Collection of Amounts Due”.
18. Subrecipients, except Subrecipients who are Governmental Agencies: subrecipients, except subrecipients who are governmental entities shall comply with the requirements and standards of OMB Circular No. A-122, “Cost Principles for Nonprofit Organizations”. or OMB Circular No. A-21, “Cost Principles for Educational Institutions”, as applicable, and OMB Circular A-133, “Audits of Institutions of Higher Education and Other Nonprofit Institutions” (as set forth in 24 CFR part 45). Audits shall be conducted annually. Such subrecipients shall also comply with the following provisions of the Uniform Administrative Requirements of OMB Circular A-110 (implemented at 24 CFR part 84, “Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and other Nonprofit Organizations”) or the related CDBG provision as specified in this paragraph:
 - (1) Subpart A – “General”;
 - (2) Subpart B – “Pre-Award Requirements” except for §84.12, “Forms for Applying for Federal Assistance”;

(3) Subpart C – “Post-Award Requirements”, except for

(i)	Section 84.22, “Payment Requirements”. Grantees shall follow the standards of §85.20(b)(7) and §85.21 in making payments to subrecipients;
(ii)	Section 84.23, “Cost Sharing and Matching”;
(iii)	Section 84.24, “Program Income”. In lieu of §84.24m CDBG subrecipients shall follow §570.504;
(iv)	Section 84.25, “Revision of Budget and Program Plans”;
(v)	Section 84.32, “Real Property”. In lieu of §85.32, CDBG Subrecipients shall follow §570.505;
(vi)	Section 84.34(g), “Equipment”. In lieu of disposition provisions of §84.34(g), the following applies: (A) In all cases in which equipment is sold, the proceeds shall be program income (prorated to reflect the extent to which CDBG funds were used to acquire the equipment); and (B) Equipment not needed by the subrecipient for CDBG activities shall be transferred to the recipient for the CDBG program or shall be retained after compensating the recipient;
(vii)	Section 84.51 (b), (c), (d), (e), (f), (g), and (h), “Monitoring and Reporting Program Performance”;
(viii)	Section 84.52, “Financial Reporting”;
(ix)	Section 84.53(b), “Retention and Access Requirements for Records”. Section 84.53(b) applies with the following exceptions: (A) the retention period referenced in §84.53(b) pertaining to individual CDBG activities shall be four years; and (B) the retention period starts from the date of submission of the annual performance and evaluation report, as
(x)	prescribed in 24 CFR 91.520, in which the specific activity is reported on for the final time rather than from the date of submission of the final expenditure report for the award; Section 84.61, “Termination”. In lieu of the provisions of §84.61, CDBG subrecipients shall comply with §570.503(b)(7)

(4) Subpart D – “After-the-Award Requirements”, except for §84.71, “Closeout Procedures”.

REAL PROPERTY ACQUIRED WITH CDBG FUNDS

19. In accordance with 24 CFR 570.503, “subrecipients”, as defined in §570.500, shall ensure that real property acquired with CDBG funds (including funds provided to the subrecipient in the form of a loan) in excess of \$25,000 is either:

- (i) Used to meet one of the national objectives in §570.208 (formerly §570.901) until five years after expiration of the agreement or for such longer period of time as determined to be appropriate by the recipient; or
- (ii) If not used in accordance with the foregoing paragraph, the subrecipient shall pay to the recipient an amount equal to the current market value of the property less any portion of the value attributable to expenditures of non-CDBG funds for the acquisition or, or

improvement to, the property. The payment is program income to the recipient. (No payment is required after the period of time specified in the paragraph (i) above.)

COMPLIANCE WITH SUBPART K- OTHER PROGRAM REQUIREMENTS

20. "Subrecipients" as defined in 24 CFR 570.500, and grantees receiving Emergency Shelter Grants and Lead Grants shall comply with applicable program requirements set forth in Subpart K, 24 CFR 570.600, including the following:

- 570.601: Public Law 88-352, which is title VI of the Civil Rights Act; Public Law 90-284, affirmatively furthering Fair Housing; and Executive Order 11063, as amended, dealing with equal opportunity in housing.
- 570.602 Section 109 of Title I of the Housing and Development Act of 1974 (the "Act") requiring that no person in the United States shall, on the ground of race, color, national origin, religion, sex, age or disability, be denied the benefits of or subject to discrimination under any program or activity receiving federal financial assistance under the Act.
- 570.603 The Labor Standards in Section 110(a) of the Act, including compliance with the Contract Work Hours and Safety Standards Act (40 U.S.C. 327).
- 570.604 Environmental Standards set forth at 24 CFR Part 58, except that subrecipient does not assume the recipient's environmental responsibilities described at 24 CFR 570.604, nor is the subrecipient responsible for initiating the review process under the provisions of 24 CFR Part 52.
- 570.605 The National Flood Insurance Program, the Flood Disaster Protection Act of 1973 (42 U.S.C. 4106), and regulations at 44 CFR Parts 59 through 79.
- 570.606 Residential Anti-displacement regulations at 24 CFR Part 42, Subpart B; relocation assistance regulations at 49 CFR Part 29; and regulations governing acquisition of real property for an assisted activity at 49 CFR Part 24, Subpart B.
- 570.607 Equal employment opportunities as set forth in Executive Order 11246, as amended by subsequent Executive Orders; equal protection of the laws for faith-based and community organizations as set forth in Executive Order 13279; and contracting opportunities set forth in Section 3 of the Housing and Urban Development Act of 1968 and implementing regulations.
- 570.608 The Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4821-4846); the Residential Lead-Based Paint Hazard Reduction Act of 1992 (42 U.S.C. 4851-4856), and implementing regulations at 24 CFR Part 35, Subparts A through R, except that only Subparts A, B, J, K, and R apply to the CDBG Program.
In addition, as required by 24 CFR, 35.145, all lead-based paint activities shall also comply with the National Environmental Review Policy Act of 1969 (42 U.S.C. 4321), and the Toxic Substances Control Act, Title IV (15 U.S.C. 2860) and other environmental laws and authorities.



CITY OF SOMERVILLE, MASSACHUSETTS

JOSEPH A. CURTATONE
MAYOR

Vendor Certification

The vendor certifies that it has provided the City of Somerville with an accurate tax identification number (TIN). In the event that the City is fined by the IRS for an incorrect TIN provided by the vendor, the vendor agrees to reimburse the City for the amount of the fine.

04-3181294

TIN

[Signature]

Signature

EDWARD S. McCLLOUD.

Printed Name of Person signing

SEQUOIA CONSTRUCTION INC.

Company

3/24/09.

Date

Somerville City Hall • 93 Highland Avenue • Somerville, Massachusetts 02143
(617) 625-6600, Ext. 3400 • TTY: (617) 666-0001 • Fax: (617) 625-1344

ONE CALL TO CITY HALL
3 1 1
SOMERVILLE
www.ci.somerville.ma.us

City of Somerville, MA
ADA Ramps Contract No. 09-108

Sequoia Construction, Inc.
10 Buckley Ave. Unit 9
Whitman, MA 02382

Contract Summary
11/05/09

Additions

Original Contract Amount	\$135,900.00
Change Order No. 1: New bump out at Burnham & Powderhouse	\$5,150.00
Change Order No. 2: Additional new curb at Burnham & Powderhouse and Broadway & Claredon Hills Towers	\$3,000.00
Change Order No. 3: Somerville Ave. & Prospect Street	<u>\$169,246.00</u>
SUBTOTAL	\$313,296.00

Deducts

Deduct Alternative #1: Eliminate Elm & Cherry Street intersection	\$22,400.00
Deduct Alternative #2: Eliminate Grind and overlay Somerville & Prospect intersection	\$18,400.00
Eliminate ramp and misc. work Somerville & Prospect	<u>\$19,800.00</u>
SUBTOTAL	\$60,600.00

NEW CONTRACT AMOUNT: **\$252,696.00**

Spent 75K

Cache 135K

Complete date

25 + 62 + 7 + 64

SEQUOIA CONSTRUCTION, INC.

10 Buckley Ave. Unit #9

Whitman, MA 02382

Phone: 781-447-8052 Fax: 781-447-8057

www.sequoiacconstruction.com

Mike Lambert
City of Somerville
93 Highland Ave
Somerville, MA 02143

RE: ADA RAMPS

Mike,

Burnham & Powderhouse:

Remove old curb salvage or deliver to D.P.W.

Set new curb

Use curb from Cherry & Elm

Additional Police details.

Adjust Catch Basin replace casting

Set curb to new configuration

Remove addition concrete panels

Loam & Seed

Cost: \$5150.00

Clarendon Hills:

Delete ramp at center island

Add ramp at opposite crosswalk

Install bumpouts as discussed

No additional cost

Union Square:

Status of NSTAR pole relocate

Schedule start up meeting to review paving limits for additional costs

D.P.W. to review ramp locations.

Construction Schedule:

Wk of 9-21 Burnham & Powderhouse Wk of 9-28 Clarendon Hills Wk of 10-5 Union Square

Thank you,

Edward McCloud

PROJECT:
ADA Ramps-Somerville

Architect:

Architect Project Number:

CONTRACTOR Sequoia Construction Inc.

CONTRACT FOR: ADA Ramps

APPLICATION DATE: 11-12-09

APPLICATION NO: 3

PERIOD FROM 8/15/2009 TO: 11/7/2009

TO:
City of Somerville
93 Highland Street
Somerville, MA 02143

ATTN: Mike Lambert

OK to Pay M.L. Z...

A01093

2605-58546-CDB608

HUD # 1534

12/17/09

APPROVED BY

A01093

09-168 HUD ACTIVITY # 1534

ENDOR # 28698

ACCT. # 2605-58546-CDB608

CHANGE ORDER SUMMARY

Change Orders approved in previous months by Owner -		ADDITIONS \$	DEDUCTIONS \$
TOTAL			
Subsequent Change Orders			
Number	Approved (date)		

TOTALS	
Net change by Change Orders	\$
State of: Massachusetts	County of: Plymouth

The undersigned Contractor certifies that the Work covered by this Application for Payment has been completed in accordance with the Contract Documents, that all amounts have been paid by him for Work for which previous Certificates for Payment were issued and payments received from the Owner, and that the current payment shown herein is now due.

Contractor: Sequoia Construction, Inc.

By: [Signature] Date: 12/17/09

In accordance with the Contract and this Application for Payment the Contractor is entitled to payment in the amount shown above.

Architect:

City:

This Certificate is not negotiable. It is payable only to the payee named herein and its issuance, payment and acceptance are without prejudice to any rights of the Owner or Contractor under their Contract.

Application is made for Payment, as shown below, in connection with the Contract. Continuation Sheet, AIA Document G702A, is attached.	
The present status of the account for this Contract is as follows:	
ORIGINAL CONTRACT SUM.....	\$135,900.00
Net change by Change Orders.....	
CONTRACT SUM TO DATE.....	\$135,900.00
TOTAL COMPLETED & STORED TO DATE.....	\$75,300.00
(Column G on G702A)	
RETAINAGE _____ 5%	\$3,765.00
or as noted in Column I on G702A	
TOTAL EARNED LESS RETAINAGE.....	\$71,535.00
LESS PREVIOUS CERTIFICATES FOR PAYMENT.....	\$33,854.75
CURRENT PAYMENT DUE.....	\$37,680.25

Subscribed and sworn to before me this 16TH day of DEC, 2009

Notary Public: [Signature] SHEILA A. MCGILLICUDDY
Notary Public
Commonwealth of Massachusetts
My Commission Expires



AUGUST 5, 2016	<input type="checkbox"/>
ARCHITECT	<input type="checkbox"/>
CONTRACTOR	<input checked="" type="checkbox"/>

PAID
327
12/22/09

SEQUOIA CONSTRUCTION, INC.
10 Buckley Ave. Unit 9
Whitman, MA 02382

PAYMENT REQUISITION No.3

11/12/2009

ITEM DESCRIPTION	SCHEDULED VALUE	PREVIOUS APPLICATION	THIS APPLICATION	TOTAL COMPLETE	PERCENT COMPLETE	BALANCE TO FINISH	5% RETAINAGE
Bonds & Insurances	2500	2500	0	2500	100%	0	125
Mobilization / Temporary Facilities	10000	10000	0	10000	100%	0	500
Schedule / Submittals	5000	5000	0	5000	100%	0	250
Permits	1000	500	500	1000	100%	0	50
Police Details	18790	3758	7516	11274	60%	7516	563.7
Traffic Planning & Control Devices	3000	3000	0	3000	100%	0	150
Remove & Store Street Furniture	1380	0	0	0		1380	0
Sawcut & Excavate Sidewalk, Curb & Ramps	6000	1200	2400	3600	60%	2400	180
Dispose / Recycle Material	2000	500	700	1200	60%	800	60
Compact Gravel Base Of Crushed Stone	1500	300	600	900	60%	600	45
Granite Curbing-reset existing	2000	400	1600	2000	100%	0	100
Granite Curbing-new	5000	1000	3250	4250	85%	750	212.5
4000 PSI Concrete	7000	1400	2800	4200	60%	2800	210
Ramp Construction	18335	3667	7334	11001	60%	7334	550.05
Detectable Warnings	3300	660	1320	1980	60%	1320	99
Certification By Design Professional	5500	0	3300	3300	60%	2200	165
Grind & Overlay Intersection - Prospect	18400	0	0	0	0%	18400	0
Grind & Overlay Old crosswalk Powderhouse	4140	0	4140	4140	100%	0	207
Lay and Grade Hot Asphalt at Ramps	3100	620	2046	2666	86%	434	133.3
New Catch Basin: Elm at Cherry	4140	0	0	0		4140	0
Remove & Replace Crosswalk Signs	500	0	500	500	100%	0	25
Remove & Reset Manhole Height/Slopes	2000	0	0	0		2000	0
Remove, Modify & Replace Fire Alarm Box	3000	0	0	0		3000	0
Relocate Storm Drain - Prospect @ Somerville, Ave.	5000	0	0	0		5000	0
Pedestrian Impact Signs	1000	0	1000	1000	100%	0	50
Seeding along Powderhouse	1000	1000	0	1000	100%	0	50
Temporary Paint	1315	0	789	789	60%	526	39.45
Alternate No. 1	0	0	0	0		0	0

135900	35505	39795	75300	60600	3765
--------	-------	-------	-------	-------	------

ORIGINAL CONTRACT SUM	\$135,900.00
NET CHANGE ORDERS	\$0.00
CONTRACT SUM TO DATE	\$135,900.00
TOTAL COMPLETED	\$75,300.00
RETAINAGE - 5%	\$3,765.00
TOTAL EARNED LESS RETAINAGE	\$71,535.00
LESS PREVIOUS PAYMENTS	\$33,854.75
CURRENT PAYMENT DUE	\$37,680.25

APPLICATION AND CERTIFICATE FOR PAYMENT

AIA DOCUMENT G702

Page 1 of

PROJECT:

ADA Ramps-4 Locations

Architect:

Architect Project Number:

HUD # 1433

CONTRACTOR Sequoia Construction Inc.

2605 58546 CDB

CONTRACT FOR:

ADA Ramps-4 Locations-Contract #09-108

APPLICATION DATE:

8/14/2009

APPLICATION NO: 2

PERIOD FROM:

5/31/2009

TO

8/14/2009

Application is made for Payment, as shown below, in connection with the Contract.
Continuation Sheet, AIA Document G702A, is attached.

The present status of the account for this Contract is as follows:

TO (Owner):

City of Somerville
93 Highland Avenue
Somerville, MA 02143

ATTN: Mike Lambert

CHANGE ORDER SUMMARY

Change Orders approved in previous months by Owner -		ADDITIONS \$	DEDUCTIONS \$
TOTAL			
Subsequent Change Orders			
Number	Approved (date)		

TOTALS

Net change by Change Orders \$

State of: Massachusetts

County of:

Plymouth

The undersigned Contractor certifies that the Work covered by this Application for Payment has been completed in accordance with the Contract Documents, that all amounts have been paid by him for Work for which previous Certificates for Payment were issued and payments received from the Owner, and that the current payment shown herein is now due.

Contractor: Sequoia Construction, Inc.

By: *R. G. Mac*

Date: 9/13/09

In accordance with the Contract and this Application for Payment the Contractor is entitled to payment in the amount shown above.

Architect:

By:

This Certificate is not negotiable. It is payable only to the payee named herein and its issuance, payment and acceptance are without prejudice to any rights of the Owner or Contractor under their Contract.

ORIGINAL CONTRACT SUM.....

\$135,900.00

Net change by Change Orders.....

CONTRACT SUM TO DATE.....

\$135,900.00

TOTAL COMPLETED & STORED TO DATE.....

\$35,505.00

(Column G on G702A)

RETAINAGE _____ 5%

\$1,650.25

or as noted in Column I on G702A

TOTAL EARNED LESS RETAINAGE.....

\$33,854.75

LESS PREVIOUS CERTIFICATES FOR PAYMENT.....

\$5,112.00

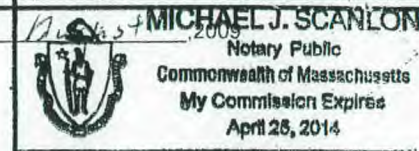
CURRENT PAYMENT DUE.....

\$28,742.25

Subscribed and sworn to before me this 18 day of August 2009

Notary Public: *H. J. Scanlon*

My commission expires:

OWNER ☐ARCHITECT ☐CONTRACTOR ☒

CITY OF SOMERVILLE
PURCHASING DEPARTMENT
CITY HALL
93 HIGHLAND AVENUE
SOMERVILLE, MA 02143
617•625•6600 EXT. 3400
617•625•1344 FAX



PURCHASE ORDER

THIS NUMBER MUST APPEAR ON
ALL INVOICES AND DELIVERY SLIPS

NO.

A01529

DATE: 09/22/09

SEQUOIA CONSTRUCTION, INC.

10 BUCKLEY AVE., UNIT 9
WHITMAN, MA

02282

Vendor # 000000028498
F.I.D. # 04318129
Req. # KC10738
Contract # 09-108
03/01/2009 02/28/2010
Account # 2603-58546-000-000-C06608

Date Req'd: 09/22/09 Terms: NET 30 DAYS F.O.B.: SOMERVILLE

DELIVER TO: KATHLEEN M CUFF #1
SPCD
93 HIGHLAND AVE.
SOMERVILLE, MA 02143

INVOICE IN DUPLICATE TO:
(If different address)

1.00	EA	SIDEWALK REPAIRS	35,900.00	35,900.00
		Lumber		
MASS SALES TAX EXEMPTION NUMBER M046 001 414				
NET TOTAL				35,900.00

ORDERED BY: KATHLEEN M CUFF #1
DEPT: 002603

AUTHORIZED BY: *Kathleen Cuff* 9/23/09
PURCHASING OFFICER

Date Goods Rec'd: _____

The total value of this order has been
encumbered against available funds
in the above named account

[Signature]
CITY AUDITOR

DEPARTMENT HEAD

[Signature]
MAYOR

CITY OF SOMERVILLE
PURCHASING DEPARTMENT
CITY HALL
93 HIGHLAND AVENUE
SOMERVILLE, MA 02143
617•625•6600 EXT. 3400
617•625•1344 FAX



PURCHASE ORDER

THIS NUMBER MUST APPEAR ON
ALL INVOICES AND DELIVERY SLIPS

NO. A01470

DATE: 09/16/09

BEQUOIA CONSTRUCTION, INC

10 BUCKLEY AVE., UNIT 9
WHITMAN, MA 02382

Vendor # 000000075698
F.I.D. # Q43181294
Req. # K010729
Contract # 09-106
03/01/2009 02/28/2010
Account # 2605-58546-000-000-CDB607

Date Req'd: 09/16/09 Terms: NET 30 DAYS F.O.B.: SOMERVILLE

DELIVER TO: KATHLEEN M CUFF #1
SPCD
93 HIGHLAND AVE.
SOMERVILLE, MA 02143

INVOICE IN DUPLICATE TO:
(If different address)

	UNIT			
1.00	EA	SIDEWALK REPAIRS	44,887.50	44,887.50
Lumber				
HOD # 1433				
MASS SALES TAX EXEMPTION NUMBER MO46 001 414				
NET TOTAL				44,887.50

ORDERED BY: KATHLEEN M CUFF #1
DEPT 002605

AUTHORIZED BY: [Signature]
PURCHASING OFFICER

Date Goods Rec'd: _____

The total value of this order has been
excumbered against available funds
in the above named account

[Signature]
CITY AUDITOR

DEPARTMENT HEAD

[Signature]
MAYOR

CITY OF SOMERVILLE
PURCHASING DEPARTMENT
CITY HALL
93 HIGHLAND AVENUE
SOMERVILLE, MA 02143
617•625•6600 EXT. 3400
617•625•1344 FAX



PURCHASE ORDER

THIS NUMBER MUST APPEAR ON
ALL INVOICES AND DELIVERY SLIPS

NO. A01093

DATE: 08/17/09

SEQUOIA CONSTRUCTION, INC

10 BUCKLEY AVE., UNIT 9
WHITMAN, MA

02382

Vendor # 000000028678
F.I.D. # 0431E1294
Req. # KC10697
Contract # 09-108
03/01/2009 02/28/2010
Account # 2605-58546-000-000-C08G08

Date Req'd: 08/17/09 Terms: NET 30 DAYS F.O.B.: SOMERVILLE

DELIVER TO: KATHLEEN M CUFF #1
SPCD
93 HIGHLAND AVE.
SOMERVILLE, MA 02143

INVOICE IN DUPLICATE TO:
(If different address)

Weislow

	UNIT			
1.00	EA	SIDEWALK REPAIRS	50,000.00	50,000.00
		HOD: 1534		
MASS SALES TAX EXEMPTION NUMBER MO46 001 414				
NET TOTAL				50,000.00

ORDERED BY: KATHLEEN M CUFF #1
DEPT. 002605

AUTHORIZED BY: *Kathleen Cuff* 8/18/09
PURCHASING OFFICER

Date Goods Rec'd: _____

The total value of this order has been
excumbered against available funds
in the above named account

[Signature]
CITY AUDITOR

DEPARTMENT HEAD

[Signature]
MAYOR

CITY OF SOMERVILLE
PURCHASING DEPARTMENT
CITY HALL
93 HIGHLAND AVENUE
SOMERVILLE, MA 02143
617-625-6600 EXT. 3400
617-625-1344 FAX



PURCHASE ORDER

THIS NUMBER MUST APPEAR ON
ALL INVOICES AND DELIVERY SLIPS

NO. 1499447

DATE: 04/30/09

SEQUOIA CONSTRUCTION, INC

10 BUCKLEY AVE., UNIT 5
WHITMAN, MA

02382

Vendor # 000000028698
F.I.D. # 043181294
Req. # KC10645
Contract # 09-108
03/01/2009 02/28/2010
Account # 2605-58546-000-000-CDBG08

Date Reqd: 04/30/09 Terms: NET 30 DAYS F.O.B.: SOMERVILLE

DELIVER TO: KATHLEEN M. CUFF #1
SPCO
93 HIGHLAND AVE.
SOMERVILLE, MA 02143

INVOICE IN DUPLICATE TO:
(If different address)

	UNIT			
1.00	EA	SIDEWALK REPAIRS	50,000.00	50,000.00
MASS SALES TAX EXEMPTION NUMBER MO46 001 414			NET TOTAL	50,000.00

ORDERED BY: KATHLEEN M. CUFF #1
DEPT# 000603

AUTHORIZED BY: *Kathleen Cuff* 5/1/09
PURCHASING OFFICER

Date Goods Rec'd: _____

The total value of this order has been
encumbered against available funds
in the above named account

DEPARTMENT HEAD

Wm. Cote 5/4/09
CITY AUDITOR Deputy

[Signature]
MAYOR

CITY OF SOMERVILLE
PURCHASING DEPARTMENT
CITY HALL
93 HIGHLAND AVENUE
SOMERVILLE, MA 02143
617-625-6600 EXT. 3400
617-625-1344 FAX



PURCHASE ORDER

THIS NUMBER MUST APPEAR ON
ALL INVOICES AND DELIVERY SLIPS

NO. 499475

DATE: 04/30/09

SEQUOIA CONSTRUCTION, INC

10 BUCKLEY AVE., UNIT 9
WHITMAN, MA

02382

Vendor # 000000028698
F.I.D. # 043181294
Req. # XC10650
Contract # 09-106
03/01/2009 02/28/2010
Account # 2605-58546-000-000-C08607

Date Req'd: 04/30/09 Terms: NET 30 DAYS F.O.B.: SOMERVILLE

DELIVER TO: KATHLEEN M CUFF #1
SPCD
93 HIGHLAND AVE.
SOMERVILLE, MA 02143

INVOICE IN DUPLICATE TO:
(If different address)

	UNIT			
1.00	EA	SIDEWALK REPAIRS	50,000.00	50,000.00
MASS SALES TAX EXEMPTION NUMBER MO46 001 414				
NET TOTAL				50,000.00

ORDERED BY:

KATHLEEN M CUFF #1
DEPT: 002605

AUTHORIZED BY:

PURCHASING OFFICER

Date Goods Rec'd:

The total value of this order has been
encumbered against available funds
in the above named account

DEPARTMENT HEAD

CITY AUDITOR

MAYOR

Franklin S&A, INC.

31 Susan's Way
Franklin, MA 02038
Phone: 508-553-3990
Fax: 508-541-3397

May 20, 2010

Mr. Edward S. McCloud
Sequoia Construction, Inc.
10 Buckley Avenue, Unit 9
Whitman, MA 02382

**RE: ADA Ramps
City of Somerville, MA
Contract No. 09-108**

Dear Mr. McCloud:

On May 19, 2010 I performed a site inspection of the following curb ramps. These ramps were constructed by your firm during the summer of 2009 under the above referenced contract. The inspection was performed to determine if the ramps are in regulatory compliance related to accessibility.

1. Northerly side of Powder House Boulevard opposite Burnham Street
2. Southwest corner of Burnham Street and Powder House Boulevard
3. Southeast corner of Burnham Street and Powder House Boulevard
4. Northerly side of Broadway at Food Master Supermarket opposite Claredon Hill Towers access drive
5. Southwest corner of Claredon Hill Towers access drive and Broadway
6. Southerly side of Broadway and the westerly end of the sidewalk east of Claredon Hill Towers access drive

I hereby certify that the listed curb ramps conform to *ADA Accessibility Guidelines for Buildings and Facilities Section 4.7 Curb Ramps* and *Massachusetts Regulation 521 CMR 21.00 Curb Cuts* that were in effect at the time of inspection.

Please do not hesitate to contact me if you have any questions or comments.

Very Truly Yours,
Franklin S & A, Inc.

Salvatore A. Bertone, PE

